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APPENDIX A.

New York Civil Practice Act, §53, governing causes in equity (*Hanover v. Morse*, 270 N. Y. 86 at 89), provided in 1928, and still provides that:

“An action, the limitation of which is not specifically prescribed in this article, must be commenced within ten years after the cause of action accrues.”

Where the equity cause arises out of an actual fraud, the accrual of the cause of action is postponed until the fraud’s discovery. (*Hanover v. Morse*, 270 N. Y. 86 at 91).

In 1928 New York Civil Practice Act, §48 prescribed a limitation of six years in:

“1. An action upon a contract obligation or liability express or implied * * *.”
* * * * *

“3. An action to recover damages for an injury to property * * *.”
* * * * *

“5. An action to procure a judgment on the ground of fraud. The cause of action in such a case is not deemed to have accrued until the discovery by the plaintiff, or the person under whom he claims, of the facts constituting the fraud.”



FILED

SEP 16 1942

IN THE

CHARLES EUGENE COHEN
U.S. DISTRICT ATTORNEY

Supreme Court of the United States

October Term, 1942.

No. 404

WYATT D. SHULTZ and CAROLYN SHULTZ, as Co-
Executors under the Last Will of Albert B. Shultz,
Deceased,

Petitioners,
vs.

MANUFACTURERS & TRADERS TRUST COMPANY,
Individually and as Co-Executor under the Last Will
of Albert B. Shultz, Deceased, *et al.*,

Respondents.

PRINCIPAL EXHIBITS REFERRED TO IN PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

ELLSWORTH C. ALVORD,
JULES C. RANDAL,
Petitioners' Counsel.

Table of Contents

This pamphlet contains copies printed for the court's convenience of those original exhibits (duly filed with the clerk of this court pursuant to order of Hon. Harold P. Burke, D. J.) deemed essential to passing on this petition. These exhibits are submitted in chronological order. A numerical index follows:

Exhibit Number	Description	Page
P-54	Carbon of letter Eastman-Dillon to the Bank, dated July 23, 1928.	1
P-56	Carbon of letter Eastman-Dillon to the Bank, dated July 27, 1928.	3
P-57	Letter from the Bank to Eastman-Dillon, dated Aug. 13, 1928....	4
P-58	Carbon of letter, Eastman-Dillon to the Bank, dated Aug. 17, 1928.	5
P-59	Carbon of letter Eastman-Dillon to the Bank, dated Aug. 31, 1928.	6
P-60	Letter from the Bank to Eastman-Dillon, dated Sept. 4, 1928....	7
P-61	Letter from the Bank to Eastman-Dillon, dated Sept. 4, 1928....	8
P-62	Letter from the Bank to Eastman-Dillon, dated Sept. 6, 1928....	9
P-98	Instrument of Sept. 26th, as executed	10
P-99	Predecessor draft of Ex. P-98, drawn by Rea	11
P-100	Working notes made in connection with redrafting of Ex. P-99	12
P-101a	Notice of sale of Houde's stock.....	13
P-102a	Carbon of cable sent by Rea over Chisholm's name to decedent, dated Sept. 28, 1928	14
P-104a	Copy of decedent's cabled reply on Sept. 29, 1928 to Ex. P-102a	15
P-105a	Copy in Chisholm's hand of 137-word cable sent by him to decedent on Oct. 1, 1928	15
P-106a	Postal Telegraph-Cable Co.'s receipt dated Oct. 1, 1928, for its charges in transmitting Ex. P-105a	16
P-108	Decedent's cabled reply to Ex. P-105a, dated Oct. 2, 1928.....	16
P-112	Agreement dated Oct. 11, 1928, between Cooley and the Bank's officers	17
P-113	Alleged copy (bearing date Oct. 13, 1928) of supplement to Ex. P-112	18
P-116b	Sample depositary receipt issued Oct. 22, 1928, to Houde's stockholders by Bank	20
P-130	Sample receipt drawn by Bank and signed by Houde's stockholders on Oct. 24, 1928 (Identical with Ex. C to Complaints)	21
P-140	Receipt drawn by the Bank and signed by decedent dated Dec. 6, 1928, in full of purchase price of his stock	27
P-141	The Bank's letter to decedent, dated Dec. 6, 1928, accounting for items receipted for in Ex. P-140	28
P-520	Letter from the Bank to Eastman-Dillon, dated July 26, 1928....	2
P-542	Receipt drawn by the Bank and signed by decedent, dated Oct. 24, 1928, and bearing the Bank's guaranty of payment in full to decedent on demand of deferred portion of the purchase price for his stock	20
D-4	Counterpart of syndicate agreement made "as of" Nov. 1, 1928, signed by decedent and ten directors of the Bank	22

Exhibit C to Complaints (for description, see Ex. P-130)
is printed at page 21.

[Plaintiffs'] Exhibit P-54.*
(Received in evidence 11/15/40)

July 23—1928

Mr. George Rea
Manufacturers & Traders Peoples Trust Co.
Buffalo, N. Y.

My dear George:

Following our telephone conversation on Friday, I talked to my people in Detroit and find a very definite interest in the Houde Engineering Company.

I had expected to come to Buffalo tomorrow with the President of the interested company, but find that he will be out of town until the end of this week.

I agree with you entirely that it will be much more satisfactory at this stage for you to sound out this situation rather than bring in Eastman, Dillon & Co. or the potential purchaser direct. For a number of reasons which I have not explained to you, I believe that there may be an opportunity to work out something here which would be very profitable to both companies.

As I may have told you over the telephone, if a purchase were consummated of the Houde Engineering Co., other negotiations which the Detroit Company has under way at the present time would result in a substantial piece of financing, and we would naturally talk to you people about it.

If you have a recent balance sheet of the Houde Co. which you can conveniently send to me, I would appreciate it. Later in the week I will advise you when I expect to be in Buffalo.

With kind regards, I am

Yours very truly,

GNB :S

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-54 on depositions herein.

[Plaintiffs'] Exhibit P-520.*
(Received in evidence 11/16/40)

MANUFACTURERS & TRADERS—PEOPLES TRUST COMPANY
Buffalo, New York

July
26th, 1928

Mr. George N. Buffington,
Eastman Dillon and Company,
Chicago, Illinois.

My dear George:

Thank you very much for your letter this morning. Its contents are certainly interesting, and I sincerely hope that our mutual efforts may result in successful negotiations.

As I told you over the telephone, I am perfectly sure that everybodys interests are best served by allowing us to make the approach to the Houde Company, and that in view of our other negotiations of three months ago, and the hope that we have for further negotiations at the end of this year on the part of yourself, George Courteyou, and ourselves, I think it would be very bad to go off half-cocked and talk with them unless every evidence of serious interest was demonstrated on the part of a possible purchaser.

Every dream that the owners of the company had six months ago for the consummation of a very profitable operation has been exceeded. It is stated that their profits will run at the rate of \$1,500,000 a year, and this is very distinctly evidenced by their current large reductions in their bank loans to us.

I have evidences of the fact that the minds of the principal owners are still working along the line as when you and I last talked to them; namely that some sort of a sell out and enjoyment of some of their earned principal while they are still young enough to enjoy it appeals to them strongly, and I am quite certain in view of the last months' experience, however, that their ideas of price are apt to be

* Bears exhibit mark in previous litigation; carbon is Ex. P-55 for identification.

substantially larger than when we talked with them before. This is, of course, quite proper, as they have demonstrated the truth and soundness of their guess at that time.

I am sorry not to comply with your request for a recent balance sheet. They make no public statements, as you know, and though we are in touch with their figures constantly, it seems to me that it would not be ethical to turn over to anyone such figures as we have through our banking connection without their consent.

I should think that the plan of procedure should more properly be carried out as to first having the talk here in Buffalo with the President of the Detroit company, and yourself, and then for us to attempt to get a definite price, or option, and thereafter disclose the name of a possible purchaser with the privilege and necessity of showing to them as complete figures as we did in the previous negotiations.

It is awfully nice to be in touch with you again, and I shall look forward to hearing from you when your plans have progressed.

With very best regards, and assuring you of a welcome in Buffalo at any time, I am

Sincerely yours,

GEORGE P. REA

GPR:GW

[Defendants'] Exhibit P-56.*

(Received in evidence 11/19/40)

July 27—1928

Mr. George Rea
Manufacturers & Traders Peoples Trust Co.
Buffalo, N. Y.

My dear George:

I received your letter of July 26th this morning regarding the Houde Company, and entirely agree with you that

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-56 on depositions herein.

our interest can be best served by allowing you to approach Mr. Schultz.

I expect to talk to my people in Detroit on the telephone tomorrow, to see if it will be possible to arrange a meeting in Buffalo the early part of next week. I can assure you that this is more than a passing interest with my friends, but I, of course, do not know how far he would go with Mr. Schultz, if he is projecting his ideas of price entirely on the last three months earnings. However, I am convinced that this is a situation which warrants further discussion by the principals.

With kind personal regards, I am
Yours very truly,

GNB:S

[Defendants'] Exhibit P-57.*
(Received in evidence 11/19/40)

Letterhead of
MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
Buffalo, New York

August 13th, 1928

Mr. George Buffington
Eastman, Dillon and Company
Chicago, Illinois.

Dear George:

Have had a preliminary conversation this morning with Mr. Schultz and find that his attitude is, in general, as I reported it to you. I do not think there is any question but what a cash offer of a price that seems reasonable to him could purchase the business in that manner.

Mr. Chisholm is away until Labor Day, and was not at the meeting this morning, and as the conversation developed it seemed to me bad psychology to crowd him to the point of definitely talking price, or option, in this first con-

* Bears exhibit mark in previous litigation, identified on 4/3/40 as Ex. P-57 on depositions herein.

versation. I had hoped that in our very first talk we might have reached this point, but, as I say, as the conversation developed I felt it best to go a little slow.

Mr. Chisholm's absence is not going to be a factor, because he can be brought back to Buffalo, if necessary, but I am sure he will agree to anything that Schultz agrees to.

I am leaving my office within a few minutes, going to the hospital to have my tonsils out, which will lay me up for a few days, and I hope not longer than that. Immediately upon my return it was left that Mr. Schultz would come down to the bank for luncheon, and give me an opportunity to at that time talk definitely with him as to an option, and as to a definite price.

You inquired about the Spicer Mfg. Company. They are making Houde instruments at the present time for Ford, and have discussed informally with Schultz his attitude and reaction toward a possible merger of the two companies. This is not in any stage where it is a matter of concern to us, and I am sure that nothing of this sort could possibly take place to upset our plans.

You will hear from me again as soon as I have anything further to report.

With very best regards.

Sincerely,

GEORGE

GPR:GW

[Defendants'] Exhibit P-58.*
(Received in evidence 11/19/40)

August 17—1928

Mr. George Rea
Manufacturers & Traders Peoples Trust Co.
Buffalo, N. Y.

My dear George,

I was sorry to hear that you have been laid up but know

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-58 on depositions herein.

that you will feel much better, now that you have had your tonsils removed.

I was very glad to know that you were able to find time to see Mr. Shultz, and I will appreciate it very much if you will advise me immediately as the matter develops further.

Looking forward to an opportunity of seeing you again in the very near future, I am

Yours very truly,

GNB :S

[Defendants'] Exhibit P-59.*

(Received in evidence 11/19/40)

August 31, 1928

Mr. George Rea
Manufacturers & Traders Peoples Trust Co.
Buffalo, New York

My dear George:

Following my telephone conversation with you a week ago Friday, I talked with Mr. Glover again, and he seems quite anxious to have certain information which I have been unable to give him, regarding the Houde Engineering Company.

As I told you when I originally talked to you, they have one or two other plans in mind on which they are working, and Mr. Glover intimated to me that one situation had progressed to a point where they would have to make a decision in the near future. I appreciate fully the way you have handled the matter to this point and realize the wisdom in not appearing anxious with Mr. Shultz, but I do believe that if possible we should be in a position to discuss something quite definite with Mr. Glover within the next week or ten days, if we expect him to become actively interested in acquiring the business.

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-59 on depositions herein.

I am merely bringing this to your attention to keep you posted upon my negotiations with the people in Detroit to date.

With kind regards, I am

Yours very truly,

GNB:S

[Defendants'] Exhibit P-60.*

(Received in evidence 11/19/40)

Letterhead of

MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
Buffalo, New York

September 4th, 1928

Mr. George Buffington
Eastman, Dillon and Company
Chicago, Illinois

Dear George:

Thank you very much for your letter today. I appreciate exactly your position with Mr. Glover, and we are moving to a definite point with Schultz just as fast as we can.

I had already tried this morning, before your letter came, for an appointment with him this afternoon, only to find that they were not back yet, but expected tomorrow. I have to be in New York tomorrow, but that should mean that we should be able to consummate another appointment not later than Thursday, or Friday.

I shall report again the moment that there is something to say.

With very kind regards.

Sincerely,

GEORGE

GPR:GW

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-60 on depositions herein.

[Defendants'] Exhibit P-61.*
(Received in evidence 11/19/40)

Letterhead of

MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
Buffalo, New York

September 4th, 1928

Mr. George Buffington
Eastman, Dillon and Company
Chicago, Illinois

Dear George:

Since writing you this morning I got in touch with Mr. Schultz, who refuses to do anything without consultation with Mr. Chisholm. Mr. Chisholm it now seems is not going to be here until sometime Thursday. Also Mr. Schultz has suddenly decided to take a month's vacation in Europe, and leaves for that purpose Thursday night.

We have urged Mr. Schultz strongly in every way that we could think of to get in touch with Mr. Chisholm by wire, or by telephone, so that we could function, but this he flatly refuses to do, and says that he will not discuss a definite option, or a definite price with us until he has had a chance to sit down and calmly talk it over with Mr. Chisholm.

We are going to make every effort to get them together on Thursday, and it is conceivable that we will be successful. We shall do everything possible, but it is a very bad break, and may, of course, mean the impossibility of a definite option for another month.

I shall report to you by telephone on Friday.

Sincerely yours,

GEORGE

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-61 on depositions herein.

[Defendants'] Exhibit P-62.*
(Received in evidence 11/19/40)

Letterhead of

MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
Buffalo, New York

September 6th, 1928

Mr. George Buffington
Eastman, Dillon and Company
Chicago, Illinois

Dear George:

I tried to wire you this afternoon about 4:30 over your wire; also tried to telephone you at your Chicago office, but found you had gone for the day. It is true that things are not very busy, but I wish I had a plutoeratic 4:30 job myself.

I have very bad news to report, for which I am very sorry, but there is no way of avoiding it. It is just one of those bad breaks that come. Mr. Chisholm was delayed en route, and did not return today. Mr. Schultz leaves, according to schedule, for his vacation in Europe tonight—once more absolutely refusing to talk definitely without Mr. Chisholm here. I tried very hard to have him use wires, or telephone, but to no avail. He simply would not function without having a conference with Mr. Chisholm.

Not a thing can be done now until Mr. Schultz returns October 1st. Whether you can stall until then or not, I do not know, but hope that perhaps you may find it wise to try, because I am hopeful that an option at a reasonable price can be obtained when Mr. Schultz gets back.

With best regards.

Sincerely,

GEORGE

* Bears exhibit mark in previous litigation, and identified 4/3/40 as Ex. P-62
on depositions herein.

[Plaintiffs'] Exhibit P-98.*
(Received in evidence 10/29/40)

September 26th, 1928.

IN CONSIDERATION of \$1.00 receipt of which is hereby acknowledged, we the undersigned stockholders of the Houde Engineering Corporation, hereby give to Krauss & Company, for a period of thirty (30) days from the date hereof, the right to purchase all the stock of the Houde Engineering Corporation at a price of (\$4,000,000) Four Million Dollars in total. This option can only be exercised by the payment of cash before its expiration.

It is understood that the net assets of the Houde Engineering Corporation, when, as, and if this option shall be exercised will be at least equivalent to the position as set forth in its balance sheet dated August 31st, 1928, and any accrual in these net assets occurring since the close of business August 31st, 1928 shall adhere to the vendors in this option.

Inasmuch as Krauss and Company will act as a broker in this transaction, it is also understood that in the event of the sale of said stock being consummated, Krauss and Company will be entitled to a commission from the purchase price of 3%.

If stockholders owning not more than a total of 265 shares of said stock, who do not sign this option, refuse to join in the sale at the price aforesaid, there shall be a reduction made in the purchase price of \$1,640.19 per share for each share of said stock which the undersigned shall be unable to deliver to the purchasers.

It is understood that the name of A. B. Shultz is signed hereto in pursuance of verbal authority given by him to negotiate a sale of said stock.

A. B. SHULTZ,
By G. H. Chisholm.

* Identified 4/3/40 as Ex. P-98 on depositions herein, and bears exhibit marks in previous litigation.

GEORGE H. CHISHOLM,
V.-Pres.

HARRY L. CHISHOLM,
Treas.

B. D. SHULTZ,
Secretary.

J. N. SCULLY,
V. P. Director.

[Defendants'] Exhibit P-99.*

(Received in evidence 12/3/40)

September 26, 1928

IN CONSIDERATION of \$1.00, receipt of which is hereby acknowledged, we the undersigned stockholders of the Houde Engineering Corporation hereby give to Krauss & Company, for a period of thirty (30) days from the date hereof, the right to purchase all the stock of the Houde Engineering Corporation at a price of (\$4,000,000) Four Million Dollars in total. This option can only be exercised by the payment of cash before its expiration.

It is understood that the net assets of the Houde Engineering Corporation, when, as, and if this option shall be exercised will be at least equivalent to the position as set forth in its balance sheet dated August 31, 1928, and any accrual in these net assets occurring since the close of business August 31, 1928 shall adhere to the vendors in this option.

Inasmuch as Krauss and Company will act as a broker in this transaction, it is also understood that in the event of this option being exercised Krauss & Company will be entitled to a commission from the purchase price of 3%.

.....
.....
.....
.....

* Bears exhibit marks in previous litigation and identified 4/3/40 as Ex. P-99 on depositions herein.

[Defendants'] Exhibit P-100.*

(Received in evidence 12/3/40)

It is understood that the name of A. B. Shultz is signed
 authority to negotiate a sale. ~~at said price~~
 hereto in pursuance of verbal ~~instructions~~ given by him
 before leaving for Europe.

If stockholders owning not more than a total of 265 shares
 of said stock, who do not sign this option, refuse to join
 in the sale at the price aforesaid, there shall be a reduction
 made in the purchase-price of \$1,640.19 per share for each
 share of stock not delivered to the purchasers.

		yes	(?)
	A. B. S.	1,125	
	H. C.	300	
	G. C.	300	
	B D S	282 $\frac{1}{4}$ x	282 $\frac{1}{4}$
131 $\frac{1}{4}$	J S	131 $\frac{1}{4}$	131 $\frac{1}{4}$
131 $\frac{1}{4}$	F S	131 $\frac{1}{4}$	131 $\frac{1}{4}$
262 $\frac{1}{2}$	H P	18 $\frac{1}{4}$ x	18 $\frac{1}{4}$
	McKaig	37 $\frac{1}{2}$	37 $\frac{1}{2}$
	Zw.	18 $\frac{1}{4}$ x	18 $\frac{1}{4}$
	H. Est.	37 $\frac{1}{2}$	37 $\frac{1}{2}$
2,176	S M S	37 $\frac{1}{2}$	37 $\frac{1}{2}$
262 $\frac{3}{4}$	Clair	20	20
2,438 $\frac{3}{4}$		2,438 $\frac{3}{4}$	2,138 $\frac{1}{2}$
			2,176
B5696-W			262 $\frac{3}{4}$
	2438 $\frac{3}{4}$	1125	
	2438.75	600	
	1590	281 $\frac{1}{4}$	
		131 $\frac{1}{4}$	
	21948750	37 $\frac{1}{2}$	
	1219375		
	243875	2175.	2438.75
			2175
	3,877,612.50		263

* Identified 4/3/40 as Ex. P-100 on depositions herein.

Statement that Bert's name is signed by verbal auth only
 Commission only in case sale is made

Statement that if cannot deliver shares of any Sk not
 signing there shall be a pro rata red in price.

2438.75)	4,000,000.00	(164.0-18
	<u>2 438.75</u>	
	<u>1 561 250</u>	
	<u>1 214 875</u>	
	<u>41 875</u>	
	<u>1 463 250</u>	
	<u>98 000 0</u>	
	<u>97 550 0</u>	
2438.75	450 0000	
164.01	<u>243 875</u>	
<u>2 438.75</u>	206 1250	
<u>975 5 00 0</u>	<u>2438.75</u>	
<u>146 32 5 0</u>	<u>164.01</u>	
<u>243 87 5</u>	<u>24 38.75</u>	
<u>39,97,9.38.75</u>	<u>9755 00 0</u>	
	<u>1 46325 0</u>	
	<u>2 43875</u>	
	<u>3,99979.38 75</u>	

[Plaintiffs'] Exhibit P-101a.*
 (Received in evidence 10/29/40)

Buffalo, N. Y.
 October 11, 1928.

Messrs. A. B. Shultz, George H. Chisholm,
 Harry Chisholm, B. Shultz and J. Scully:

Dear Sirs:

Referring to the option dated September 26, 1928, which
 you have given us for the purchase of all of the stock of

* Carbon copy identified 4/4/40 as Ex. P-101 on depositions herein.

Houde Engineering Corporation at a price of \$4,000,000.00 we beg to advise you that we have secured as a purchaser the New York Car Wheel Company of this City, which has agreed to purchase said stock upon the terms of our option, and has made available in our hands the sum of \$4,000,000.00 therefor.

We accordingly notify you that we elect to exercise our option as of this date, and tender you payment in full upon delivery to us of all the stock of the Houde Engineering Corporation duly endorsed for transfer, less a possible maximum of 265 shares, all as provided in our option.

We shall be glad to suit your convenience as to time and place of delivery, and payment prior to October 25th, and suggest that you promptly arrange with us for an early closing.

Yours very truly,

KRAUSS & COMPANY
By T. Cantwell

[Defendants'] Exhibit P-102a.*

(Received in evidence 10/30/40)

September 28, 1928

A. B. Shultz
Hotel Pierre Premier
PARIS, FRANCE

Looks as if sale will go through if can take prompt action. Price Four Million cash for all stock. All others have agreed. Please cable me immediately authority to act for you and Clare. No need hastening your return.

G. H. CHISHOLM.

FULL RATE CABLE

* Identified 4/4/40 as Ex. 105A on depositions herein.

[Defendants'] Exhibit P-104a.*

(Received in evidence 10/30/40)

Postal Telegraph

Cable form

9/29 1928

To Paris

Cables received George Chisholm arrange telephone me
Paris Louvre 07-91 Cable Pierre time of cable

Shultz

Reed

9 00

M.D.

W. F. Hennessy 79 Greenwood
Dave Bid. 4325

* Identified 4/4/40 as Ex. P-104-A on depositions herein.

[Plaintiffs'] Exhibit P-105a.*

(Received in evidence 10/28/40)

Postal Cablegram

A. B. Shultz

Hotel Pierre Premier
Paris FranceManufacturers Bank trying to get best price possible acting
in our interests. Option four million cash minimum. Com-
mission three percent. Believe can effect sale now under
present financial and industrial conditions which may
change. We are pessimistic if delay necessary. Purchaser
would buy capital stock assuming all assets and liabilities
August thirty first. Profits since come to us in addition.
We feel future competition uncertain and all agree wise to
take sure thing. Any or all present organization remain if
wish. Purchaser's attitude hope they stay. Please cable

* Identified 4/4/40 as Ex. 105a on depositions herein.

authority to act for you and Clare. Am afraid may lose opportunity if wait your return. Prospects Timken Bendix third party unknown.

(s) G. H. CHISHOLM

[Plaintiffs'] Exhibit P-106a.*

(Received in evidence 10/30/40)

Message Memorandum

October 1 1928

To

POSTAL TELEGRAPH-CABLE COMPANY

For convenience in verifying accounts,
please preserve the following items of
messages sent.

To	137 WORD CABLE INCLUDING PC AND FIVE WORDS PC PREPAID CABLE TO A B SHULTZ PARIS CABLE	\$ CTS.
	ACKNOWLEDGMENT OF RECEIPT	\$ 35 37
From		1 35
	G H CHISHOLM	
		Total, \$ 36 72
(Signature)	Postal Tel Co.	
	Per C. Mason	

* Identified 4/4/40 as Ex. P-106A on depositions herein.

[Plaintiffs'] Exhibit P-108.*

(Received in evidence 10/29/40)

7NYMN 650 AM 15 VIA COML

PARIS Oct 2 1928 1149AM

* Identified 4/4/40 as Ex. P-108 on depositions herein.

GEORGE CHISHOLM ATLASTEEL

BUFFALO.

OPTION AS CABLED HAS OUR APPROVAL
 OBVIH (leaving today for) SWITZERLAN
 OJABEMEHUV (will return by Saturday)
 HERE.

SHULTZ

[Plaintiffs'] Exhibit P-112.*
 (Received in evidence 11/5/40)

MEMORANDUM in RE HOUDE ENGINEERING CORPORATION.

On September 26th certain stockholders of the Houde Engineering Corporation gave an option to Krauss & Company to purchase their holdings of stock in the Houde Engineering Corporation; Krauss & Company, through Mr. Rea secured the New York Car Wheel Company as the purchaser of this stock.

It is the intention, and mutual understanding, of Messrs. Harriman, Rea, and Wurst, of the Manufacturers & Traders-Peoples Trust Company, and Mr. Fred B. Cooley, President of New York Car Wheel Company, that in the event of the death or disability of Mr. Cooley before the organization of a syndicate hereafter mentioned Messrs. Harriman, Rea, and Wurst, will take over the obligation of the New York Car Wheel Company to complete the purchase of the Houde Engineering Corporation stock, and hold it (The New York Car Wheel Company) harmless from all its obligations in that respect; and Mr. F. B. Cooley, as President of the New York Car Wheel Company agrees for that company, or its assigns, that in the event of his death or disability, that Messrs. Harriman, Rea, and Wurst, shall succeed to all the rights of the New York Car Wheel Company to purchase said stock.

* Bears exhibit marks in previous litigation as well as being identified on 4/4/40 as Ex. P-112 on depositions herein.

It is the intention of the New York Car Wheel Company presently to form a syndicate with the assistance of the officials of the Trust Company, above mentioned, to take over from it a substantial amount of the stock which the New York Car Wheel Company has elected to purchase under the Krauss & Company option; this amount to be taken over from the New York Car Wheel Company to relieve it of approximately the amount of \$3,500,000.00 of a total purchase of \$4,000,000.00.

It seems best not to form this syndicate for possibly three or four days from date, but the officials of the Trust Company have signified their ability and readiness to do so.

This memorandum is intended to set forth the intention of the parties to it, in the event of the death, or disability, of Mr. Fred B. Cooley, and prior to the formation of the Syndicate as stated above.

PERRY E. WURST
LEWIS G. HARRIMAN
GEORGE P. REA
F. B. COOLEY

October 11, 1928

[Plaintiffs'] Exhibit P-113.*
(Received in Evidence 11/19/40)

Buffalo, N. Y.
October 13, 1928.

Messrs. Lewis G. Harriman,
Perry E. Wurst,
George P. Rea.

Gentlemen:—

Through the agency of the Manufacturers and Traders-Peoples Trust Company, which held an option to purchase the stock of the Houde Engineering Corporation, the New York Car Wheel Company, of which I own control, has undertaken to purchase this stock at a price of approximately

* Identified 4/4/40 as Ex. P-113 on depositions herein.

\$4,000,000.00 in accordance with the terms of the option held in the name of Krauss and Company.

You individually, and personally, have undertaken to relieve the New York Car Wheel Company of this obligation to purchase, in case of my death, and you have also undertaken to refinance the Houde Engineering Corporation for me.

Negotiations are now pending for an immediate resale of the stock of this corporation at a profit; thus obviating the necessity of any refinancing, to a subsidiary of the General Motors Corporation. These negotiations were instituted by Mr. John R. Oshei, and if they are consummated it is my intention to pay Mr. Oshei a proper sum for his services, and after the other expenses are paid, it is my intention to divide the net profit as follows:

50% to the Manufacturers & Traders-People Trust Co.
and Western New York Investors, Inc. jointly

7½% Mr. Harriman

7½% Mr. Wurst

15% Mr. Rea,

retaining 20% myself.

In case this sale is not consummated, it is contemplated that an underwriting syndicate be organized, in which we shall participate individually, in which the bank and Western New York Investors, Inc., will be permitted to participate; and also such other individuals, and corporations, as we shall agree upon, including—Central Trust Company of Illinois, and Eastman, Dillon and Company, who were originally interested in refinancing this corporation.

I expect such plan of refinancing to provide that 25% of the net profit shall be retained by me and you as my associates, to be divided among us on the following basis:

15% Mr. Harriman

15% Mr. Wurst

30% Mr. Rea

40% Myself

(signed) F. B. COOLEY.

[Plaintiffs'] Exhibit P-116b.*
 (Received in Evidence 10/30/40)

Buffalo, N. Y., October 22nd, 1928.

RECEIVED OF B. D. SHULTZ

Certificate of stock representing One hundred (100) shares of the HOUDE ENGINEERING CORPORATION, endorsed in blank, to be delivered to New York Car Wheel Company or its nominee when at least all of the outstanding stock of said company, except two hundred sixty-five (265) shares, have been deposited with the undersigned depositary. Delivery is to be made pursuant to the terms of an option, dated September 26, 1928, given to Krauss & Company. The price per share is to be at the rate of Four Million Dollars (\$4,000,000) for the entire issued and outstanding stock of said Houde Engineering Corporation, in addition to such sum per share as shall be certified to represent earnings since September 26th, 1928, as certified to the undersigned by Ernst & Ernst, less a commission of Three percent (3%) which is to be retained by you and paid to Krauss & Co.

MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
 By (s) Perry E. Wurst
Executive Vice President

Plaintiffs' Exhibit P-542.†
 (Received in Evidence 11/18/40)

October 24th, 1928.

RECEIVED of New York Car Wheel Company, by Fred B. Cooley, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), part payment on a total of One Million Eight Hundred Eighty Four Thousand Ninety-one and 91/100 Dollars, (\$1,884,091.91), which is the full amount due me for One Thousand One Hundred Twenty-five (1,125) shares of

* Identified 4/4/40 as Ex. P-116B on depositions herein.

† Identified 11/18/40 as Ex. P-542 on the trial herein.

the Capital Stock of Houde Engineering Corporation, sold and delivered under the terms of an option dated September 26th, 1928, given to Krauss & Co., the three percent (3%) commission allotted to the latter having been deducted from the sale price. The balance is to be paid to me on demand, except that I may be permitted to take stock of a new corporation in part payment of the balance.

It is understood that I am repaying to Fred B. Cooley the sum of Fifty Thousand Dollars (\$50,000.00), being the amount paid by him to settle the claim of Francis P. Scully and James N. Scully against me.

(s) ALBERT B. SHULTZ

We undertake to see that payments are made to A. B. Shultz, in accordance with the terms of the above receipt, on demand.

MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
By (s) Perry E. Wurst
Executive Vice President

Exhibit C to Complaints.*

“October 24th, 1928.

RECEIVED of New York Car Wheel Company, by Fred B. Cooley, the sum of Two Hundred Nineteen Thousand Eight Hundred Ten and 73/100.... Dollars, (\$219,810.73), in full payment for one hundred thirty-one and one-quarter (131 1/4) shares of the Capital Stock of Houde Engineering Corporation, sold and delivered under the terms of an option dated September 26, 1928, given to Krauss & Co., the three per cent (3%) commission allotted to the latter having been deducted from the sale price.

JAMES N. SCULLY.

* This exhibit was received in evidence as defendants' Ex. P-130 on 10/30/40; it bears exhibit marks in previous litigation, and was identified 4/4/40 as Ex. P-130 on depositions herein. The answer of the Bank, Wurst, et al., admits that this exhibit is similar in form to the receipts signed by the other stockholders [I 51].

[Defendants'] Exhibit D-4.*
(Received in evidence 11/1/40)

SYNDICATE AGREEMENT
HOUDE ENGINEERING CORPORATION SYNDICATE
November 1, 1928.

1. The Subscribers hereby associate themselves as, and shall constitute, a Syndicate for the purpose of buying from New York Car Wheel Company of Buffalo, N. Y., 2438- $\frac{3}{4}$ shares, being all of the outstanding capital stock of Houde Engineering Corporation at the cost of said stock to said New York Car Wheel Company, and for the purpose of supplying additional working capital to said Houde Engineering Corporation. Said cost shall consist of:

- (a) The actual price paid by said New York Car Wheel Company for said stock, which is based on the total price of \$4,000,000.00 for all the outstanding stock of said Company, plus accruals from August 31st to October 11th, 1928.
- (b) Interest, counsel fees, disbursements and all necessary and proper expenses of New York Car Wheel Company incurred in the purchase and carrying of said stock.

The New York Car Wheel Company has deferred its profit in the transaction as hereinafter provided.

2. The Subscribers shall participate pro rata in the Syndicate to the extent of the amounts set opposite their respective names, and agree to pay for subscriptions on call of the Syndicate Managers, as hereinafter provided. The Subscribers further agree, if the Syndicate Managers determine that the Houde Engineering Corporation, or its successor, requires additional working capital, to pay additional amounts pro rata, not exceeding twenty-five per cent (25%) of their respective subscriptions as and when called upon by the Syndicate Managers. All Participations are

* Identified 4/1/40 as Ex. D-4 on depositions herein. Exs. D-8, P-178/9 are copies or carbon copies of this exhibit, except for names of syndicate subscribers [v., I 494-5]

payable at the time and place designated in such call of the Syndicate Managers, and calls not paid on the date so fixed shall be charged with interest at the rate of six per cent (6%) per annum.

3. The Syndicate Managers will issue to the Subscribers Certificates of Participation in the Syndicate after payments are made. Certificates of Participation shall be in such form as the Syndicate Managers shall determine and may, in the discretion of the Syndicate Managers, be registered by such Trust Company as they may designate as Registrar of such Certificates.

4. Frederick B. Cooley, Lewis G. Harriman and
are hereby constituted Syndicate Managers
under this agreement. In the event of the death, permanent
disability or resignation of any Syndicate Manager, his
place shall be filled by the remaining Syndicate Managers;
and upon the failure of the remaining Syndicate Managers
to fill any such vacancy or vacancies within sixty (60) days
after they occur, the majority in amount of participants
may fill the same by written designation delivered to the
Registrar, or to the holders of Certificates of Participations.
Wherever the Syndicate Managers are referred to
in this agreement it refers to the Syndicate Managers
actually acting as such. The Syndicate Managers assume
no personal obligation or liability in the management of
the Syndicate and shall be liable only for their bad faith or
wilful misconduct.

5. The Syndicate Managers shall be vested with entire
and sole power to manage and conduct the Syndicate. Without
limit upon the generality of the foregoing they shall
have and exercise all of the rights and powers of the Syndicate
as stockholders of Houde Engineering Corporation,
or any successor or other corporation in which the Syndicate
may own stock, to the full extent of all capital stock
at any time purchased or owned by the Syndicate. To that
end they shall have the right, if they shall deem it necessary or
advisable, to cause all Syndicate stock of Houde

Engineering Corporation, or any successor or other Corporation, to be transferred to their names, but for the benefit of the Syndicate. For the purpose of more effectively vesting the specific powers above enumerated in the Syndicate Managers each of the Subscribers does hereby constitute the Syndicate Managers his or its true and lawful attorney, during the continuance of the Syndicate, in his or its name, place and stead, to vote all stock of Houde Engineering Corporation, or any successor or other Corporation which may have been purchased and/or owned by the Syndicate and distributed to the participants, as fully as he or it could do if personally present, hereby ratifying and confirming all acts or things done or performed by virtue hereof. The Syndicate Managers shall have the right to purchase, contract for the purchase, sell, repurchase and resell stock of Houde Engineering Corporation and of its successors; to borrow money for account of the Syndicate at such interest rates and upon such terms as they may determine; to pledge or otherwise charge as security for such borrowings, the assets of the Syndicate in whole or in part, including any unpaid obligations of the participants. The Syndicate Managers shall have the right to organize or cause to be organized, or to join with others in the organization of a Corporation under the laws of such State as they may determine, and to transfer to such Corporation all or any part of the Syndicate assets in exchange for cash and/or stock in such Corporation. The Syndicate Managers shall have the right to cancel and forfeit to the Syndicate, or to resell, any Participation upon failure of the participant to make payment of all of his Participation when called in accordance with this agreement, or upon the failure of any participant to perform any part of his obligation hereunder. Failure on the part of one participant to pay or to perform his obligation hereunder shall not relieve any other participant. The Syndicate Managers may employ such agents, counsel and others in whatever capacity as they may deem proper; all for

the account of the Syndicate and at its expense. The Syndicate Managers shall act without compensation.

6. The Syndicate is organized for the period of one year from its date, subject, however, to the right of the Syndicate Managers to extend the same for a further period or periods not exceeding one year from the expiration of said original term by ten days written notice to participants. The Syndicate Managers may, from time to time, distribute shares of stock and/or any profits from the Syndicate operation and the same shall be distributed pro rata to the participants.

7. The Syndicate Managers may terminate this Syndicate at any time upon ten (10) days' notice to the participants. Upon the expiration or termination of the Syndicate, and after the payment of all Syndicate obligations, the assets shall be distributed as follows:

Any assets other than cash, (including any assets theretofore distributed to participants) shall be appraised by the Syndicate Managers to determine the basis of the cost thereof to the Syndicate, in accordance with the Federal Income Tax Law and Regulations controlling such cost basis, for the purpose of determining the profit or loss resulting from the Syndicate operation. Twenty-five per cent (25%) of any net profit resulting from the Syndicate operation shall first be paid to New York Car Wheel Company, or its assigns, as its profit upon the sale of Houde Engineering Corporation stock to the Syndicate; such payment to be made partly in cash and partly in other assets (if any) at their value as appraised, in the proportion which total Syndicate cash bears to total Syndicate other assets at their value as so appraised (including any cash or other assets theretofore distributed to the participants); provided, however, that in determining the amount of profits for the purpose of arriving at the payment to New York Car Wheel Company, no account shall be taken of any sums paid in for additional working capital, and similarly no account shall be taken of the net earnings of the busi-

ness, whether distributed by way of dividends or not. All assets of the Syndicate remaining after such payment to New York Car Wheel Company shall be distributed pro rata to the participants in like proportions to each participant of cash and other assets, if any.

8. All expenses of the Syndicate Managers, including brokerage commissions, counsel fees and all other disbursements and expenses made by them in connection with the carrying out of the purpose of this agreement shall be charged to the Syndicate and shall be divided, borne and paid pro rata by the Syndicate Participants upon call of the Syndicate Managers. Nothing in this agreement shall be construed as constituting the Subscribers or Participants partners with each other, or with the Syndicate Managers, it being expressly agreed that the liability of each Subscriber or Participant is limited to the amount of his Participation, the amount of any call for additional working capital not exceeding twenty-five per cent (25%) of his Participation, and his pro rata share of the expenses of the Syndicate.

9. The Syndicate Managers may be subscribers to the Syndicate and to the extent of any subscription shall participate in the profits and losses to the same extent as other Subscribers.

10. All calls and notices upon or to participants shall be made or given by the Syndicate Managers, or their agents or nominees, and shall be sufficient if mailed, registered, to the participants at their addresses of record with the Syndicate Managers or the Registrar of the Certificates.

11. This agreement shall bind the Subscribers and their respective successors, assigns and personal representatives. It may be made or signed in several counter-parts, but all such counter-parts shall be taken as one original instrument. The holding of Certificates of Participation shall constitute such holders parties to the agreement as fully to all intents and purposes as if signing the same.

IN WITNESS WHEREOF, the Syndicate Managers have subscribed an original hereof and the Syndicate Subscribers have subscribed said original or counterparts thereof, as of the day and year first above written.

.....
.....
.....

SYNDICATE SUBSCRIBERS

Name	Address	Amount of Subscription
Lewis G. Harriman	% M and T-Peoples Trust Co.	\$250,000
Perry E. Wurst	"	250,000.
Harry T. Ramsdell		250,000—
Ralph Hochstetter		500,000.—
E. C. Andrews		250,000 —
Albert D. Sykes		50 000
D. J. Kenefick		50,000.
Bradley Goodyear		50,000
Eugene J. McCarthy		50,000
A. B. Shultz		250,000.00
F. B. Cooley		500,000.00

[Defendants'] Exhibit P-140.*
(Received in evidence 11/27/40)

Buffalo, N. Y.

December 6th, 1928.

RECEIVED OF FRED B. COOLEY, the sum of One Million Six Hundred Thirty-four Thousand Ninety-one and 91/100 Dollars, (\$1,634,091.91) together with interest thereon at four percent (4%) from October 24th to December 1st, amounting to Six Thousand Seven Hundred Seventeen and 93/100 Dollars (\$6,717.93), being the balance

* Identified 4/4/40 as Ex. P-140 on depositions herein.

in full due me on account of the purchase price of my stock in Houde Engineering Corporation.

These payments were received by me through the deposit of Two Hundred Thousand Dollars (\$200,000) to my account in the Manufacturers & Traders-Peoples Trust Company on December 3, 1928; the deposit of Six Thousand Seven Hundred Seventeen and 93/100 (\$6,717.93), made to my account on December 5, 1928; and the issuance to me by the Manufacturers & Traders-People Trust Company of two (2) Certificates of Deposit for Five Hundred Thousand Dollars (\$500,000) each, four (4) Certificates of Deposit for One Hundred Thousand Dollars (\$100,000) each, and one (1) Certificate of Deposit for Thirty-Four Thousand Ninety-one and 91/100 Dollars (\$34,091.91), all dated December 5th, 1928 and bearing interest from December 1st, 1928 on full calendar months only, at the rate of 2% per annum if left one month, 3% per annum if left two months and 4% per annum if left three months, which deposits and certificates were all made and issued in accordance with my instructions to Mr. Wurst.

A. B. SHULTZ.

[Defendants'] Exhibit P-141.*

(Received in evidence 11/27/40)

Letterhead of
 MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY
 Buffalo, N. Y.

December
 6th, 1928.

Mr. A. B. Shultz,
 537 East Delavan Avenue,
 Buffalo, N. Y.

Dear Mr. Shultz:

Below you will find a statement covering the sale of your 1125 shares of stock to Fred B. Cooley:

* A carbon copy was identified 4/4/40 as Ex. P-141 on depositions herein.

Oct. 24, 1928

Delivered 1125 shares Houde Engineering
stock, after deduction of commission, at\$1,884,091.91
Payment made to you on account purchase
price 250,000.00

Balance due you as of this date.....\$1,634,091.91

Dec. 1, 1928

Interest on \$1,634,091.91 from October 24th to
December 1st, 1928, 1 month 7 days, at 4%.. 6,717.93

\$1,640,809.84

The above sum was paid to you as follows:

Deposited to your checking a/c
Dec. 3rd \$ 200,000.00

Deposited to your checking a/c
Dec. 5th 6,717.93

Certificates of Deposit issued

Dec. 5th, 1928, in your name as
follows:

2 at \$500,000 each.. \$1,000,000.00

4 at 100,000 each.. 400,000.00

1 at 34,091.91 ... 34,091.91

(Above Certificates bear interest
from Dec. 1, 1928)

1,434,091.91 \$1,640,809.84

Enclosed herewith is a copy of the receipt you gave me
covering the above payments to you.

Very truly yours,

PERRY E. WURST.

19
No. 404

SEP 16 1942

CHARLES ECHOLS GROPLE
CLERK

United States Circuit Court of Appeals

FOR THE SECOND CIRCUIT.

WYATT D. SHULTZ, and One, as Co-Executors under the
Last Will of Albert B. Shultz, Deceased,
Plaintiffs-Appellants,

against

MANUFACTURERS & TRADERS TRUST COMPANY,
Individually and as their Co-Executor, etc., *et al.*,
Defendants-Appellees.

INDEX TO RECORD AND EXHIBITS.

TABLE OF CONTENTS.

	Page
Index to Printed Record	I
Index to Exhibits	XV

Exhibits are listed in numerical order, and without regard to who offered them. Up to the number 78 there are numerous exhibits having the same numerical designation. These are differentiated by the letter "P" or "D" being prefixed to the number (pursuant to stipulation [766] that exhibits should retain same designations as were used on depositions in these suits).

INDEX TO PRINTED RECORD.

	PAGE
Amended Complaint (Equity No. 2279).....	7
Exhibit A to Amended Complaint—Houde Syndicate Agreement	31
Exhibit B to Amended Complaint—Contract for sale of Houde Stock, Dated Nov. 20, 1928....	37
Exhibit C to Amended Complaint—Sample Receipt signed by Houde Stockholders (other than A. B. Shultz) Dated Oct. 24, 1928.....	42
Exhibit D to Amended Complaint—Receipt signed by A. B. Shultz, Dated Oct. 24, 1928.....	42
Answer in Civil Action No. 182.....	128
Answer of Defendants Chisholm and Cortelyou, Statement <i>re</i> (Equity No. 2279).....	62
Answer of Defendants Thomas C. Eastman, <i>et al.</i> (Equity No. 2279)	83
Answer of Defendants Manufacturers & Traders Trust Company, <i>et al.</i> (Equity No. 2279)	43
Answer of Defendant Sawyer (Equity No. 2279).....	63
Exhibit A—Statement of Sept. 26, 1928 (a copy of Plaintiffs' Exhibit 98 in evidence herein)...	81
Exhibit B—Notice of Oct. 11, 1928 (a copy of Plaintiffs' Exhibit 101 in evidence herein)...	83
Appearances at Opening of Trial (Oct. 28, 1940)....	248
Appearance of Joseph H. Morey, Esq. (Dec. 23, 1940) ..	2298
Clerk's Certificate	2322
Complaint in Civil Action No. 182.....	104
Designation, Defendants' Cross	2311
Designation, Plaintiffs'	2303
Findings of Fact and Conclusions of Law.....	202
Judgment	246
Memorandum by Burke, J., Rendered During Trial..	1029
Motion by Defendants Eastman-Dillon <i>et al.</i> , to strike Exhibits	1083
Motion by Defendant Sawyer to strike Exhibits and Testimony, and to Amend Answers, with Rulings of Court	2030

II.

	PAGE
Motion by Defendants to Dismiss Complaints.....	1084
Motion by Defendants for Judgment.....	2298
Motion by Plaintiffs for Judgment.....	2258
Motion by Plaintiffs to Conform Pleadings to Proof..	1081
Motion by Plaintiffs to Strike Affirmative Defenses..	249
Notice of Appeal	248
Opening for Defendants, by Mr. Medina, Portion of..	250
Opinion of Burke, J. Directing Dismissal.....	177
Order Conforming Pleadings to Proofs.....	1083
Order of Settlement	2320
Plaintiffs' Demand for Admissions, Dated Aug. 7, 1939	147
Plaintiffs' Demand for Admissions, Dated Nov. 17, 1939	158
Plaintiffs' Demand for Admissions Dated Nov. 22, 1939	166
Response of Defendant Wurst to Plaintiffs' Demand for Admissions Dated Aug. 7, 1939	152
Response of Defendant Wurst to Plaintiffs' Demand for Admissions Dated Nov. 17, 1939	164
Response of Defendant Wurst to Plaintiffs' Demand for Admissions Dated Nov. 22, 1939	171
Responses of Other Defendants to Plaintiffs' Demand for Admissions Dated Aug. 7, 1939, Statement Sum- marizing	156
Responses of Other Defendants to Plaintiffs' Demand for Admissions Dated Nov. 17, 1939, Statement <i>re</i> ..	166
Responses of Other Defendants to Plaintiffs' Demand for Admissions Dated Nov. 22nd, 1939, Statement <i>re</i>	174
Ruling of Court Receiving Generally as Against Saw- yer and Eastman-Dillon Exhibits Theretofore Ad- mitted Subject to Connection	2260
Statement <i>re</i> Jurisdictional Facts, Pre-trial Proceed- ings and Orders, Depositions, and Issuance of Sub- poena <i>duces tecum</i>	174
Statement <i>re</i> Docketing of Record	2303
Statement of Evidence	248
Statement Prepared by Court <i>re</i> Limitation of Scope of Inquiry on Taking of Depositions (cf. pp. 2320-1). 176	
Statement Pursuant to Rule XIII	2

III.

	PAGE
B. Defendants' Offers Read as Completing Specific Admissions	
Direct Examination	730, 731, 732, 733, 737, 739, 740, 1000, 1001
Cross Examination	731, 734, 736, 738, 1001
Re-direct Examination	736
Re-cross Examination	736
C. Defendants' Offers Not Read as Completing Specific Admissions	
Direct Examination	741, 742, 743, 744, 745
Re-direct Examination	1043, 1044
Affidavit in Support of Defendants' Motion for Summary Judgment	
Excerpt Offered by Plaintiffs	1067
Defendants' Written Objections, Counter-of- fer and the Court's Ruling	1067
Chisholm, Harry L.	
Affidavit in Support of Defendants' Motion for Summary Judgment	
Excerpt Offered by Plaintiffs	1067
Defendants' Written Objections, Counter-of- fer and the Court's Ruling	1067
Cortelyou, George Bruce, Jr.	
Direct Examination	919
Cross Examination	953
Re-direct Examination	957
Re-cross Examination	958
Re-direct Examination	958
Cooley, Frederick B.	
Deposition Given in These Suits	745
Excerpts Offered by Plaintiffs	745
(N. B. For explanatory note showing na- ture of examination see footnote page 745)	
A. Plaintiffs' Offers	
Direct Examination	745, 746, 749, 750, 754, 756, 759, 761, 762, 763, 764, 768, 769, 770, 771, 772
B. Defendants' Offers Read as Completing Specific Admissions	
Direct Examination	772, 773, 774, 775, 776, 777, 778

C. Defendants' Offers Not Read as Completing Specific Admissions	
Direct Examination	778, 779, 1045
Feil, Christian G.	
Direct Examination	969
Cross Examination	971
Re-direct Examination	972
Harriman, Lewis G.	
Deposition Given in 1935 in <i>Goetz</i> case (portions read by both plaintiffs and defendants)	531
Testimony Given in 1935 in <i>Goetz</i> case (portions read by both plaintiffs and defendants)	543
Direct Examination	543, 544, 545
Cross Examination	546, 547, 549, 550
Testimony Given in 1937 in Second Trial of Consolidated Actions Brought by James N. Scully, Francis P. Scully, Byron David Shultz, Minnie L. Zwickey, and Harold L. Putnam v. Manufacturers & Traders Trust Company, <i>et al.</i> (portions read by both plaintiffs and defendants)	552
Direct Examination	552, 553, 554, 555, 556, 1003, 1004, 1005, 1007
Cross Examination	556, 557, 561, 562, 592, 593
Re-direct Examination	564, 595, 596, 597
Re-cross Examination	596
Deposition Given in 1940 in These Suits Plaintiffs' Offers	
Direct Examination	783
Defendants' Offers Not Read as Completing Specific Admissions	
Direct Examination	1003, 1004, 1005, 1007
Affidavit in Support of Defendants' Motion for Summary Judgment	
Except Offered by Plaintiffs	1006
Defendants' Written Objections, Counter-offer and the Court's Ruling	1006
Krauss, Albert E. J.	
Direct Examination	276
Cross Examination	296

Deposition Given in These Suits

	PAGE
Defendants' Offers Read as Completing Specific Admissions	1079
Plaintiffs' Offers:	
Direct Examination	1076, 1077
Re-direct Examination	1079
Defendants' Offers read as completing Specific Admissions:	
Direct Examination	1079, 1080, 1081
Cross Examination	1079
Mills, Edward N.	
Direct Examination	257
Cross Examination	265
Re-direct Examination	276
Morey, Joseph H.	
Direct Examination	354
O'Hara, Robert M.	
Direct Examination	1040
Rea, George P.	
Deposition given Jan. 22, 1935 (portions read by both plaintiffs and defendants)	
Direct Examination	496, 498, 499, 513
Cross Examination	499, 500, 501, 505, 507, 509, 518, 521
Re-direct Examination	503, 519, 520
Re-cross Examination	511, 512, 520, 521
Deposition Given in These Suits (portions offered by both plaintiffs and defendants)	598
(N. B. For explanatory note showing nature of examination, etc., see page 598)	
Excerpts offered by plaintiffs	
Direct Examination	598, 599, 601, 604, 605, 606, 610, 611, 612, 614, 616, 617, 621, 625, 627, 628, 629, 630, 631, 632, 634, 635, 637, 638, 639, 640, 644, 647, 650, 651, 652, 653, 654, 659, 661, 662, 664, 668, 672, 673, 678, 682, 695, 696
Re-direct Examination	696, 697

VIII.

PAGE

Excerpts offered by defendants or at their instance	PAGE
Direct Examination	599, 600, 601, 606, 608, 609, 610, 611, 613, 614, 615, 618, 619, 623, 624, 626, 630, 634, 637, 639, 640, 646, 649, 658, 662, 674, 698
Cross Examination	642, 705
Re-direct Examination	643, 677
Sawyer, Ansley W.	
Direct Examination	785
Cross Examination	842
Re-direct Examination	853
Re-cross Examination	861
Re-direct Examination	863
Schlenker, Edward C.	
Direct Examination	973
Cross Examination	974
Scully, James N.	
Deposition Given in These Suits	327
Direct Examination (Read by Plaintiffs)	327
Cross Examination (Read by Defendants)	336
Re-direct Examination (Read by Plaintiffs)	351
Re-cross Examination (Read by Defendants)	354
Selcoe, Frank	
Direct Examination	1038
Cross Examination	1039
Re-direct Examination	1039
Re-cross Examination	1039
Re-direct Examination	1039
Shisler, Eva G.	
Direct Examination	966
Sippell, Irene	
Direct Examination	975
Cross Examination	982
Re-direct Examination	984
Shultz, Byron David ("Dave")	
Direct Examination	355
Cross Examination	378
Re-direct Examination	438
Re-cross Examination	444
Re-direct Examination	445

IX.

PAGE

Re-called:	
Direct Examination	986
Shultz, Wyatt D.	
Direct Examination	864
Cross Examination	882
Re-direct Examination	912
Re-cross Examination	916
Re-direct Examination	917
Re-cross Examination	918
Re-direct Examination	918
Sweeney, Kathleen J.	
Direct Examination	581
Cross Examination	585
Re-direct Examination	585
Weidman, Orlin G.	
Direct Examination	522
Cross Examination	529
Re-direct Examination	530
Re-cross Examination	531
Re-direct Examination	531
White, Charles A.	
Deposition Given in These Suits	
(N. B. For nature of examination see footnote page 991)	
Plaintiffs' Offers	991
Defendants' Offers Read as Completing Spe- cific Admissions	996, 999
Plaintiffs' Written Objections to Defendants' Offers	997
Wurst, Perry E.	
Testimony Given in 1933 in <i>Chisholm Tax Case</i> (portions read by both plaintiffs and defend- ants)	445
Direct Examination	446
Cross Examination	454
Re-direct Examination	469
Re-cross Examination	471
Re-direct Examination	481
Re-cross Examination	484

X.

	PAGE
Re-direct Examination	487
Re-cross Examination	487
Testimony Given in 1935 in <i>Goetz Case</i> (portions read by both plaintiffs and defendants).....	541
Plaintiffs' Offers	
Cross Examination	541
Defendants' Offers	
Direct Examination	543
Cross Examination	541
Deposition Given in 1940 in These Suits	
Plaintiffs' Offers	
Direct Examination	780, 781, 783, 1074
Defendants' Offers Read as Completing Specific Admissions	1008, 1011
Defendants' Offers not Read as Completing Spe- cific Admissions	1012, 1014, 1016
Testimony Upon the Trial of These Suits	
Direct Examination	958
Cross Examination	962
Re-direct Examination	965
Re-called:	
Direct Examination	967
DEFENDANTS' CASE.	
Bennett, Holly R.	
Direct Examination	1569
Cross Examination	1574
Re-direct Examination	1587
Re-cross Examination	1588
Re-direct Examination	1590
Re-cross Examination	1591
Re-direct Examination	1591
Re-cross Examination	1592
Bent, Maurice H.	
Deposition Taken in These Suits by Plaintiffs....	2188
Direct Examination (by plaintiffs).....	2188
Cross Examination	2191
Re-direct Examination (by plaintiffs).....	2192
Plaintiffs' Objections	2193

Buffington, George N.	
Deposition Taken in These Suits by Plaintiffs	2033
Direct Examination (by plaintiffs)	2033
Cross Examination by Attorneys for Eastman, <i>et al.</i>	2144
Cross Examination (by other defendants)	2147
Cross Examination	2150
Re-direct Examination (by plaintiffs)	2151
Re-cross Examination	2153
Re-direct Examination (by plaintiffs)	2154
Corrections to Deposition	2154
Plaintiffs' Objections	2155
Chisholm, George H.	
Testimony Upon the Trial of These Suits (recall- ed)	1306
Direct Examination	1306
Cross Examination	1334
Re-direct Examination	1373
Re-cross Examination	1377, 1381
Deposition Given in These Suits	
Excerpt offered by Defendants	2200
Cooley, Frederick B.	
Direct Examination	1796
Cross Examination	1824
Re-direct Examination	1908
Cross Examination by Co-defendants	1914
Re-direct Examination	1915
Re-cross Examination	1915
Drosendahl, Norman H.	
Direct Examination	1593
Cross Examination	1595
Re-direct Examination	1604
Re-cross Examination	1605
Fisk, Irving L.	
Direct Examination	1519
Preliminary Cross Examination	1527
Direct Examination, Resumed	1536
Cross Examination	1550
Re-direct Examination	1567
Re-cross Examination	1568

Harriman, Lewis G.	
Testimony Upon the Trial of These Suits.....	1084
Direct Examination	1084
Cross Examination	1180
Re-direct Examination	1295
Re-cross Examination	1300
Testimony Given in the Second Trial of the Min- ority Stockholders' Action	
Excerpt Offered by Defendants.....	2198
Markham, Herbert I.	
Deposition Taken in These Suits by Plaintiffs.	2157
Direct Examination (by plaintiffs).....	2157
Cross Examination	2178
Re-direct Examination (by plaintiffs).....	2184
Re-cross Examination	2185
Re-direct Examination (by plaintiffs).....	2186
Re-cross Examination	2186
Re-direct Examination (by plaintiffs).....	2186
Plaintiffs' Objections	2186
Mason, Melville C.	
Direct Examination	1606
Cross Examination	1630
Cross Examination	1631
Re-direct Examination	1665
Re-cross Examination	1667
Millard, Charles W., Jr.	
Direct Examination	1785
Cross Examination	1788
Re-direct Examination	1794
Morey, Joseph H.	
Re-called:	
Direct Examination	2025
Cross Examination	2026
Oishei, John R.	
Direct Examination	1677
Cross Examination	1690
Re-direct Examination	1713
Re-cross Examination	1716
Re-direct Examination	1716
Re-cross Examination	1717

XIII.

	PAGE
Peo, Ralph F.	
Direct Examination	1718
Cross Examination	1742
Re-direct Examination	1783
Re-cross Examination	1783
Rea, George P.	
Testimony Upon the Trial of These Suits.....	1382
Direct Examination	1382
Cross Examination	1416
Cross Examination, by Co-defendants.....	1431
Cross Examination, by Plaintiffs, Resumed..	1434
Re-direct Examination	1504
Re-cross Examination	1508
Re-direct Examination	1515
Re-cross Examination	1516
Deposition Given Jan. 22, 1935	
Excerpt omitted due to error or inadvertence	2197
Deposition Given in These Suits	
Excerpt Offered by Defendants.....	2199
Colloquy from this Deposition Offered by De- fendants	2199
Shultz, Wyatt D.	
Re-called:	
Direct Examination	1516
Cross Examination	1517
Re-called:	
Direct Examination	1763
Wurst, Perry E.	
Testimony Upon the Trial of These Suits (re- called)	1923
Direct Examination	1923
Cross Examination by Co-defendants.....	1961
Cross Examination by Plaintiffs.....	1962
Testimony Given in 1935 in the <i>Goetz Case</i>	
Excerpt Offered by Defendants.....	2197
PLAINTIFFS' REBUTTAL CASE.	
Adams, David C.	
Direct Examination	2256

Andrews, Edwin C.	
Deposition Given in These Suits	
Plaintiffs' Offers	
Direct Examination	2265, 2266, 2268, 2273, 2293
Defendants' Offers	
Direct Examination	2289, 2290, 2294
Cross Examination	2287
Defendants' Objections	2287
Defendants' Counter Offers Excluded	2292
Cummings, C. DeForest	
Direct Examination	2251
Cross Examination	2252
Re-direct Examination	2254
Ellis, Edward F.	
Direct Examination	2211
Harriman, Lewis G.	
Affidavit Verified March 5, 1938 in Proceeding	
Brought by Plaintiffs to Remove the Defendant	
Trust Company as Their Co-executor	
Excerpt Offered by Plaintiffs	2276
Defendants' Objections Thereto	2285
Testimony Given in the <i>Goetz</i> case	
Excerpt Offered by Plaintiffs	2278
Defendants' Objections Thereto	2285
Testimony Given in the Second Trial of Action	
Brought by James N. Scully and Others Against	
the Manufacturers & Traders Trust Company	
Excerpt Offered by Plaintiffs	2277
Defendants' Objections Thereto	2285
Further Excerpt Offered by Plaintiffs	2279
Defendants' Objections Thereto	2285
Counter Offer by Defendants	2286
Deposition Given in These Suits	
Further Offer by Plaintiffs	2281, 2283
Defendants' Objections Thereto	2293
Defendants' Counter Offer	2293
Krauss, Albert E. J.	
Re-called:	
Direct Examination	2215

XV.

	PAGE
Cross Examination	2222
Re-direct Examination	2223
Re-cross Examination	2225
Re-direct Examination	2225
Langley, Joseph C.	
Direct Examination	2226
Cross Examination	2243
Re-direct Examination	2246
Re-cross Examination	2248
Re-direct Examination	2249
Re-cross Examination	2250
Morey, Joseph H.	
Re-called:	
Direct Examination	2212
Putnam, Harold W.	
Direct Examination	2210
Rossmann, Edwin F.	
Direct Examination	2201
Cross Examination	2204
Re-direct Examination	2207
Re-direct Examination	2209
Sanborn, John W.	
Direct Examination	2209
Wurst, Perry E.	
Testimony Given in 1935 in <i>Goetz case</i>	
Excerpt Offered by Plaintiffs.....	2276
Defendants' Objection Thereto	2285
Deposition Given in These Suits	
Excerpt Offered by Plaintiffs.....	2296
Excerpt Offered by Defendants.....	2297
INDEX OF EXHIBITS.	
Found in Exhibit Book at Page	
Dfts. Ex. P-1—Ledger sheet of defendant Bank's "Commission Bond Profit Investment" ac- count. Received in evidence at Fol. 3073.....	2610
Dfts. Ex. D-1—Photostat of minutes of meeting of Executive Committee of Directors of de- fendant Bank held October 31, 1928. Received in evidence at Fol. 932.....	2609, 2864

Dfts. Ex. P-2—Memorandum journal account, being securities strike sheet of defendant Bank, containing certain figures shown on Defendants' Exhibit P-1. Received in evidence at Fol. 3073	2610
Dfts. Ex. D-4—Executed counterpart of Syndicate agreement, dated November 1, 1928. Other executed counterparts were received in evidence as Defendants' Exs. P-178, P-179 and D-8. Received in evidence at Fol. 1482 (and see stipulation at 1307)	2611-2
Dfts. Ex. D-8—Executed counterpart of Syndicate agreement, dated Nov. 1, 1928. See Defendants' Ex. D-4, <i>supra</i> . Received in evidence at Fol. 1482	2611
Pl. Ex. P-11—Paper headed "NON-RECURRING ITEMS WHICH ERNST & ERNST WILL CERTIFY To". This is the same as Plaintiffs' Ex. P-417a from the files of Eastman, Dillon & Co. Received in evidence at Fol. 3053 (and see stipulation at 2968)	2324
Dfts. Ex. P-14—Preliminary report of Ernst & Ernst, dated Feb. 3, 1928. Received in evidence at Fol. 6087	2613
Pl. Ex. P-18— <i>Pro Forma</i> balance sheet of Houde as of Sept. 30, 1928, contained in gray cover. Received in evidence at Fol. 3053	2325
Pl. Ex. P-19—Statement showing the monthly net earnings of Houde Company from January to September, 1928 inclusive. Received in evidence at Fol. 4502	2328
Pl. Ex. D-19—Photostat of letter from U. George Krapfel, attorney at law, Detroit, Michigan, to Committee on Stock List, Chicago Stock Exchange, dated Nov. 18, 1928. Received in evidence at Fol. 4955	2329
Pl. Ex. P-20—"Memorandum— <i>Re</i> Houde". (This is substantially the same as Defendants' Ex. P-454 from the files of Eastman, Dillon & Co.) Received in evidence at Fol. 2774 (and see statement at 3691)	2330

XVII.

Found in
Exhibit Book
at Page

Dfts. Ex. P-21—Ernst & Ernst audit report of the Houde Engineering Corporation, dated Feb. 6, 1928, and covering the period ending Dec. 31, 1927. Received in evidence at Fol. 3275	2615
Dfts. Ex. P-22—Houde's monthly statements for first ten months of 1928 contained in brown leather cover. Received in evidence at Fol. 3289	2625
Dfts. Ex. P-23a/c—Liability ledger sheets of defendant Bank showing loans to Houde. Received in evidence at Fol. 3281	2628
Dfts. Ex. P-24a/b—Letters exchanged between Ford Motor Company and Houde Engineering Corporation, dated Jan. 20, 1928. (This is the same as a portion of Defendants' Ex. P-63). Received in evidence at Fol. 3262 (and see stipulation at 2967-8)	2629
Pl. Ex. P-27—Carbon of letter Rea to Alexander, dated May 31, 1927. Received in evidence at Fol. 2757	2335
Dfts. Ex. D-27—Photostat of minutes of meeting of Board of Directors of Houde held Sept. 26, 1928. Received in evidence at Fol. 1010	2634
Dfts. Ex. P-28—Telegram Alexander to Rea, dated June 1, 1927. Received in evidence at Fol. 2861	2638
Dfts. Ex. D-28—Certified copy of waiver of notice and minutes of meeting of Directors of Houde held on Nov. 7, 1928. Received in evidence at Fol. 1305	2636
Dfts. Ex. 29—Original letter Alexander to Rea, dated June 6, 1927. Received in evidence at Fol. 2861	2639
Dfts. Ex. P-30—Carbon copy of letter Rea to Alexander, dated June 7, 1927. Received in evidence at Fol. 2862	2640
Dfts. Ex. D-30—Photostat of minutes of meeting of Board of Directors of defendant Bank held Nov. 7, 1928. Received in evidence at Fol. 946.. 2641, 2866	

XVIII.

Found in
Exhibit Book
at Page

Dfts. Ex. P-31—Original letter Alexander to Rea, dated June 17, 1927. Received in evidence at Fol. 2862	2641a
Dfts. Ex. D-31—Photostat of minutes of meeting of Executive Committee of Board of Directors of defendant Bank held Nov. 7, 1928. Received in evidence at Fol. 947	2642, 2870
Defts. Ex. P-32—Original letter Chisholm to Rea, dated June 21, 1927. Received in evidence at Fol. 3983	2643
Dfts. Ex. D-32—Photostat of minutes of meeting of Directors of defendant Bank held Dec. 4, 1928. Received in evidence at Fol. 948	2643a, 2872
Dfts. Ex. P-33—Carbon of letter Rea to Alexander dated June 22, 1927. Received in evidence at Fol. 2861	2643b
Dfts. Ex. D-33—Complaint in action of Byron D. Shultz v. Manufacturers & Traders Trust Company, verified Nov. 2, 1934. Received in evidence at Fol. 1253	2644
Dfts. Ex. P-34—Letter Alexander to Rea, dated June 23, 1927. Received in evidence at Fol. 2861	2657
Dfts. Ex. D-34—Bill of particulars in case of Byron D. Shultz v. Manufacturers & Traders Trust Company, verified Nov. 4, 1935. Received in evidence at Fol. 1269	2655
Dfts. Ex. P-35—Carbon of letter Rea to Chisholm, dated June 27, 1927. Received in evidence at Fol. 2861	2657
Dfts. Ex. D-35—Certified photostat of Certificate of Incorporation of Houde Company, Dec. 31, 1918. Received in evidence at Fol. 1295	2658
Dfts. Ex. P-36—Carbon of letter Rea to Alexander, dated June 27, 1927. Received in evidence at Fol. 2861	2659
Dfts. Ex. D-36—Photostat of copy of letter Harris, Small & Co. to A. B. Shultz, dated Dec. 5, 1928. Received in evidence at Fol. 4775 (and see stipulations at 1307, 6579)	2660

XIX.

Found in
Exhibit Book
at Page

Dfts. Ex. P-37—Letter Chisholm to Rea, dated June 28, 1927. Received in evidence at Fol. 3983	2661
Dfts. Ex. D-37—Photostat of letter A. B. Shultz to Harris, Small & Co., dated Dec. 26, 1928. Received in evidence at Fol. 4775 (and see stipulation at 1308)	2662
Dfts. Ex. P-38—Carbon of letter Rea to Chisholm, dated July 11, 1927. Received in evidence at Fol. 2862	2663
Dfts. Ex. D-38—Photostat of letter A. B. Shultz to Harris, Small & Co., dated Dec. 31, 1928. Received in evidence at Fol. 4776 (and see stipulation at 1308)	2664
Dfts. Ex. P-39—Letter Chisholm to Rea, dated July 14, 1927. Received in evidence at Fol. 3983	2665
Dfts. Ex. D-39—Photostat of copy of letter Harris, Small & Co. to A. B. Shultz, dated Jan. 3, 1929. Received in evidence at Fol. 4776 (and see stipulations at 1308, 6583)	2666
Dfts. Ex. D-40—Photostat of letter A. B. Shultz to Mason, dated June 26, 1929. Received in evidence at Fol. 4815 (and see stipulation at 1309)	2667
Dfts. Ex. D-41—Carbon of letter of Syndicate Managers to A. B. Shultz, dated Dec. 5, 1928. Received in evidence at Fol. 1475 (and see statement at 3511)	2668
Pl. Ex. P-42—Carbon of letter Rea to Cortelyou, dated Oct. 7, 1927. Received in evidence at Fol. 2861	2339
Dfts. Ex. D-42—Copy of letter Trust Department of the defendant Bank to Wyatt Shultz, dated Apr. 3, 1933. Received in evidence at Fol. 1591	2669
Dfts. Ex. P-44—Letter Sawyer to Parker, dated Feb. 28, 1928. Received in evidence at Fol. 2861	2670
Dfts. Ex. P-45—Carbon of letter Parker to Cortelyou, dated March 2, 1928. Received in evidence at Fol. 2862	2671

Dfts. Ex. D-45—Copy of Federal income tax return of defendant Cooley for 1928. Received in evidence at Fol. 5742.....	2672
Dfts. Ex. P-46—Carbon of letter Parker to Sawyer, dated Mar. 2, 1928. Received in evidence at Fol. 2862	2673
Dfts. Ex. P-47—Carbon of letter Bank to Cortelyou, dated March 15, 1928. Received in evidence at Fol. 2862.....	2674
Dfts. Ex. D-47—Check of Syndicate Managers for \$123,318.33 payable to defendant Bank. (See Plaintiffs' Ex. P-166 for identification.) Received in evidence at Fol. 3074.....	2675
Pl. Ex. P-48—Letter Cortelyou to Parker, dated Apr. 4, 1928. Received in evidence at Fol. 2798	2340
Dfts. Ex. D-48—Check of Syndicate Managers for \$153,884.80, payable to defendant Bank. (See Plaintiffs' Ex. P-166 for identification.) Received in evidence at Fol. 3074.....	2676
Pl. Ex. P-49—Letter Cortelyou to Parker, dated Apr. 12, 1928. Received in evidence at Fol. 2800	2342
Dfts. Ex. D-49—Photostat of page of Visitors' Register of Buffalo Club, Oct. 12, 1928. Received in evidence at Fol. 5047.....	2677
Pl. Ex. P-50—Carbon of Bank's letter to Cortelyou, dated Apr. 14, 1928. Received in evidence at Fol. 2811.....	2344
Dfts. Ex. D-50—Four checks of Syndicate Managers covering various payments to A. B. Shultz, dated Dec. 4, 1928. (See Plaintiffs' Ex. P-166 for identification). Received in evidence at Fol. 3516.....	2678
Pl. Ex. P-51—Copy of letter Rea to Cortelyou dated Apr. 27, 1928. Received in evidence at Fol. 2816	2345
Dfts. Ex. D-51—Certificate of deposit records of defendant Bank covering certificates of deposit issued to A. B. Shultz, Dec. 5, 1928. Received in evidence at Fol. 3518.....	2678

XXI.

Found in
Exhibit Book
at Page

Pl. Ex. P-52—Letter Cortelyou to Rea, dated May 1, 1928. Received in evidence at Fol. 2817.....	2347
Dfts. Ex. D-52—Photostat of minutes of meeting of Directors of Houde held Dec. 11, 1928. Received in evidence at Fol. 3523.....	2679
Pl. Ex. P-53—Carbon of letter Rea to Cortelyou, dated May 2, 1928. Received in evidence at Fol. 2817	2348
Dfts. Ex. D-53—Photostat of letter A. B. Shultz to Houdaille-Hershey Corporation, dated March 2, 1929. Received in evidence at Fol. 4776	2681
Pl. Ex. P-54—Carbon of letter Buffington to Rea, dated July 23, 1928. Received in evidence at Fol. 2818 (and see stipulation at 4426-7).....	2349
Dfts. Ex. D-54—Photostat of letter A. B. Shultz to George V. Foy, dated Apr. 11, 1929. Received in evidence at Fol. 4776.....	2682
Pl. Ex. P-55 (Id.)—Photostat of Plaintiffs' Ex. P-520	2349a
Dfts. Ex. P-56—Carbon of letter Buffington to Rea, dated July 27, 1928. Received in evidence at Fol. 2955	2683
Dfts. Ex. D-56—List of papers, documents, etc. in Estate of Albert B. Shultz. Received in evidence at Fol. 4812.....	2684
Dfts. Ex. P-57—Letter Rea to Buffington, dated Aug. 13, 1928. Received in evidence at Fol. 2956	2685
Dfts. Ex. D-57—Carbon of letter Mr. Randal to Mr. Medina, dated Nov. 9, 1940. Received in evidence at Fol. 4812.....	2686
Dfts. Ex. P-58—Carbon of letter Buffington to Rea, dated Aug. 17, 1928. Received in evidence at Fol. 2956.....	2689
Dfts. Ex. P-59—Carbon of letter Buffington to Rea, dated Aug. 31, 1928. Received in evidence at Fol. 2956.....	2690

Dfts. Ex. D-59—Photostat of consent to hold first and organization meeting of the incorporators of Houdaille Corporation, etc. Received in evidence at Fol. 4848.....	2691
Dfts. Ex. P-60—Letter Rea to Buffington, dated Sept. 4, 1928. Received in evidence at Fol. 2956	2692
Dfts. Ex. D-60—Photostat of draft copy of Articles of Association of Hershey Corporation, with pencil changes thereon. Received in evidence at Fol. 4841.....	2693
Dfts. Ex. P-61—Letter Rea to Buffington, dated Sept. 4, 1928. Received in evidence at Fol. 2956	2705
Dfts. Ex. D-61—Photostat of carbon of letter Mason to A. B. Shultz, dated Aug. 19, 1929. Received in evidence at Fol. 4880.....	2706
Dfts. Ex. P-62—Letter Rea to Buffington, dated Sept. 6, 1928. Received in evidence at Fol. 2956	2707
Dfts. Ex. D-62—Photostat of certificate of filing of Articles of Association of Houdaille Corporation, dated Nov. 16, 1928. Received in evidence at Fol. 4870.....	2708
Dfts. Ex. P-63—Letter from F. Glover, The Timken-Detroit Axle Co., to Buffington, dated Sept. 18, 1928, together with copy of letters exchanged between Ford Motor Company and Houde, dated Jan. 20, 1928 (Defendants' Ex. P-24a/b). Received in evidence at Fols. 2956, 2968.....	2709
Dfts. Ex. D-63—Photostat of letter Clark J. W. Colby, Assistant to Secretary, The Chicago Stock Exchange, to Mason, dated Nov. 21, 1928. Received in evidence at Fol. 4868.....	2712a
Pl. Ex. P-64 (Id.)—Photostat of Plaintiffs' Ex. P-389, the latter being copy of wire Buffington to Rea, dated Sept. 24, 1928.....	2350
Dfts. Ex. D-64—Photostat of order of Michigan Securities Commission with respect to stock of Houdaille Corporation, dated Nov. 21, 1928. Received in evidence at Fol. 4868.....	2712d

XXIII.

Found in
Exhibit Book
at Page

Pl. Ex. P-65 (Id.)—Photostat of Plaintiffs' Ex. P-392	2350
Pl. Ex. P-66 (Id.)—Photostat of Plaintiffs' Ex. P-393	2350
Dfts. Ex. D-66—Photostat of carbon of letter Har- ris, Small & Co. to A. B. Shultz, dated Dec. 28, 1928 Received in evidence at Fol. 5350.....	2712g
Pl. Ex. P-67 (Id.)—Photostat of Defendants' Ex. P-395	2350
Dfts. Ex. D-67—Photostat of letter A. B. Shultz to Barnes, dated Dec. 28, 1928. Received in evi- dence at Fol. 5351.....	2713
Pl. Ex. P-68 (Id.)—Photostat of Defendants' Ex. P-403	2350
Dfts. Ex. D-68—Photostat of letter A. B. Shultz to Barnes, dated June 26, 1929. Received in evidence at Fol. 5351	2713
Dfts. Ex. D-69—Photostat of letter A. B. Shults to Barnes, dated Oct. 11, 1929. Received in evidence at Fol. 5351	2713
Pl. Ex. P-70 (Id.)—Photostat of Plaintiffs' Ex. P-402	2351
Dfts. Ex. D-70—Photostat of letter A. B. Shultz to Barnes, dated Jan. 23, 1930. Received in evidence at Fol. 5351	2714
Dfts. Ex. D-71—Photostat of letter A. B. Shultz to Barnes, dated March 26, 1931. Received in evidence at Fol. 5351	2715
Dfts. Ex. P-72—Carbon of letter Buffington to Rea, dated Oct. 21, 1928. Received in evidence at Fol. 2957	2716
Dfts. Ex. D-72—Printed letter Melville C. Mason to stockholders of Oakes Products Corpora- tion, Hershey Corporation and Houdaille Cor- poration, dated Feb. 6, 1929. Received in evi- dence at Fol. 5352	2717
Pl. Ex. P-73 (Id.)—Photostat of Plaintiffs' Ex. P-534	2352

Pl. Ex. P-74—Letter Buffington to Rea, dated Oct. 31, 1928. Received in evidence at Fol. 2848	2353
Pl. Ex. P-75—Letter Rea to Buffington, dated Nov. 1, 1928. Received in evidence at Fol. 2923	2354
Dfts. Ex. D-75—Copy of minutes of special meeting of stockholders of New York Car Wheel Company, held on April 26, 1934. Received in evidence at Fol. 5734	2718
Dfts. Ex. D-76—Financial Statement of Cooley Trading Company, Inc., dated April 18, 1928. Received in evidence at Fol. 5881	2719
Dfts. Ex. P-77—Letter Buffington to Rea, dated Nov. 2, 1924. Received in evidence at Fol. 2923	2355
Dfts. Ex. D-77—Time slip of Joseph H. Morey, dated Nov. 15, 1928. Received in evidence at Fol. 6075	2720
Dfts. Ex. P-78—Carbon of letter Buffington to Barnes, dated Nov. 2, 1928. Received in evidence at Fol. 2957	2721
Dfts. Ex. D-78—Time slip of Joseph H. Morey, dated Nov. 16, 1928. Received in evidence at Fol. 6078	2723
Pl. Ex. P-80 (Id.)—Photostat of Plaintiffs' Ex. P-421	2356
Pl. Ex. P-81 (Id.)—Photostat of Plaintiffs' Ex. P-422	2356
Pl. Ex. P-83 (Id.)—Carbon of telegram Rea to Barnes, dated Nov. 15, 1928. Received in evidence at Fol. 2968	2357
Pl. Ex. P-84—Carbon of letter Rea to Barnes, dated Nov. 15, 1928. Received in evidence at Fols. 2969, 3053	2358
Dfts. Ex. P-85—Carbon of letter Rea to Alexander, dated Nov. 20, 1928. Received in evidence at Fol. 2862	2724

Pl. Ex. P-86—Letter Rea to Buffington, dated Nov. 20, 1928. Received in evidence at Fol. 2969	2360
Pl. Ex. P-87 (Id.)—Photostat of Defendants' Exhibit P-182. Received in evidence at Fol. 2970. (Withdrawn at 3518)	2361
Pl. Ex. P-88—Letter Harris, Small & Co. to Syndicate Managers, dated Nov. 20, 1928. Plaintiffs' Ex. P-315 for identification from the files of the defendant Sawyer is a carbon copy of this exhibit. Received in evidence at Fol. 2970..	2362
Dft. Ex. P-89—Letter Central Trust Company to Rea, dated Nov. 21, 1928. Received in evidence at Fol. 2862	2725
Pl. Ex. P-90 (Id.)—Telegram Harris, Small & Company to defendant Bank, dated Nov. 21, 1928. This telegram is quoted in Plaintiffs' Ex. P-91. (See stipulation at 3503).....	2363
Pl. Ex. P-91—Letter Beaumont, Smith & Harris, to defendant Bank, dated Nov. 21, 1928. This letter quotes Plaintiffs' Ex. P-90 for identification on the depositions. Received in evidence at Fol. 2970	2364
Pl. Ex. P-92—Carbon of letter defendant Wurst to Continental National Bank & Trust Company, dated Nov. 21, 1928. Received in evidence at Fol. 2969	2365
Pl. Ex. P-93—Carbon of letter defendant Wurst to defendant Cooley, dated Nov. 22, 1928. Received in evidence at Fol. 2969.....	2366
Pl. Ex. P-94—Letter Continental National Bank & Trust Company to defendant Wurst, dated Nov. 22, 1928. Received in evidence at Fol. 2970	2367
Pl. Ex. P-95—Carbon of letter Rea to Beaumont, Smith & Harris, dated Nov. 23, 1928. Received in evidence at Fol. 2971	2368
Pl. Ex. P-96—Letter Buffington to Rea, dated Nov. 23, 1928. Received in evidence at Fol. 2969	2369

Dfts. Ex. P-97—Carbon of letter Rea to Barnes and Allington, dated Dec. 3, 1928. Received in evidence at Fols. 5469-70.....	2727
Pl. Ex. P-98—Instrument of Sept. 26, 1928, executed by certain of Houde's stockholders. Received in evidence at Fol. 984 (and see stipulations at 1494, 1551)	2370
Dfts. Ex. P-99—Carbon of preliminary draft of instrument dated Sept. 26, 1928. Received in evidence at Fol. 1009	2728
Dfts. Ex. P-100—Two yellow sheets of paper containing longhand notes of Irving L. Fisk. Received in evidence at Fol. 4568	2729
Pl. Ex. P-101—Carbon of notice of Krauss & Company, dated Oct. 11, 1928, with special delivery registry receipts attached. Received in evidence at Fols. 984-5.....	2371
Pl. Ex. P-101a—Copy of Plaintiffs' Ex. P-101, bearing the signature of the defendant Cantwell, sent to Dave Shultz. Received in evidence at Fol. 1123	2371
Dfts. Ex. P-102a—Carbon of cable G. H. Chisholm to A. B. Shultz, dated Sept. 28, 1928. Received in evidence at Fol. 1207	2733
Dfts. Ex. P-103—Carbon of cable defendant Bank to its Paris Office, dated Sept. 28, 1928. Received in evidence at Fol. 1214	2734
Dfts. Ex. P-104a—Copy of Plaintiffs' Exhibit P-104b. Received in evidence at Fols. 1208, 2932	2735
Pl. Ex. P-104b—Cable A. B. Shultz to G. H. Chisholm, dated Sept. 29, 1928. Received in evidence at Fol. 2932	2372
Pl. Ex. P-105a—Copy of 137-word cable G. H. Chisholm to A. B. Shultz. Received in evidence at Fol. 783	2373
Pl. Ex. P-106a—Receipt of Postal Telegraph-Cable Company, dated Oct. 1, 1928, for 137-word cable. Received in evidence at Fol. 1109	2374

XXVII.

Found in
Exhibit Book
at Page

Dfts. Ex. P-107—Confirmation of cable Postal Telegraph Company to G. H. Chisholm. Received in evidence at Fol. 1214	2736
Pl. Ex. P-108—Cable A. B. Shultz to G. H. Chisholm, dated Oct. 2, 1928. Received in evidence at Fol. 890	2375
Dfts. Ex. P-109—Copy of unsigned two-page letter Barton A. Bean to Oishei, dated Oct. 2, 1928, together with carbon copy of further 17-page unsigned letter to Oishei, dated Oct. 2, 1928, and initialed "ARH". Received in evidence at Fol. 3302	2737
Pl. Ex. P-112—Memorandum dated Oct. 11, 1928, signed by defendants Wurst, Harriman, Rea and Cooley. Received in evidence at Fols. 1450, 1506 (and see stipulations at 1480, 4073, 4267-8)	2376
Pl. Ex. P-113—Copy of instrument signed by defendant Cooley addressed to the defendants Harriman, Wurst and Rea, bearing date Oct. 13, 1928. Received in evidence at Fol. 2958 (and see statements at 524-6, 5943, 6766)	2377
Dfts. Ex. P-114—Carbon of audit report of Ernst & Ernst on Houde, dated Oct. 20, 1928, covering examination of books as of the close of business Sept. 30, 1928. Received in evidence at Fol. 3387	2747
Pl. Ex. P-116b—Depositary receipt of defendant Bank to B. D. Shultz, dated Oct. 22, 1928. Received in evidence at Fol. 1127	2378
Pl. Ex. P-117—Letter Ernst & Ernst to the defendant Bank, dated Oct. 23, 1928. Received in evidence at Fol. 1476 (and see stipulation at 1342)	2379
Dfts. Ex. P-119a—Release to Houde, its stockholders, directors and officers, executed by the Scullys, dated Oct. 22, 1928. Received in evidence at Fol. 1031	2749
Dfts. Ex. P-119b—Duplicate original of Defendants' Ex. P-119a. Received in evidence at Fol. 1031	2749

Dfts. Ex. P-120—Original ribbon copy of agreement between Cooley and the Sculleys, dated Oct. 22, 1928, signed by defendant Cooley only, and containing statement endorsed thereon in handwriting and signed by A. B. Shultz. Received in evidence at Fol. 3375 (and see stipulation at 1307)	2750
Dfts. Ex. P-121—Carbon of Defendants' Exhibit P-120, signed by defendant Cooley and the Scullys. Received in evidence at Fol. 1028	2751
Dfts. Ex. P-122—Carbon of letter J. N. Scully to Directors of Houde, dated Oct. 22, 1928. Received in evidence at Fol. 1027	2754
Dfts. Ex. P-123—Undated assignment of stock of Houde signed by Frank P. Scully. Received in evidence at Fol. 1028	2755
Dfts. Ex. P-124—Letter Frank P. Scully addressed to M. & T.-Peoples Trust Company and New York Car Wheel Company, dated Oct. 22, 1928. Received in evidence at Fol. 1032	2757
Dfts. Ex. P-125—Receipt executed by James N. Scully and Francis P. Scully, by his attorneys, dated Oct. 24, 1928. Received in evidence at Fol. 1027	2757
Pl. Ex. P-126—Statistical table used on closing of Houdaille. Received in evidence at Fol. 1476	2382
Dfts. Ex. P-127—Photostat of stock certificate for 600 shares of stock of Houde issued to H. L. and G. H. Chisholm, dated Oct. 22, 1928. Received in evidence at Fol. 3992 (and see stipulation at 1307)	2758
Dfts. Ex. P-128—Photostat of certificate for 2438 1/4 shares of stock of Houde Company issued to defendant Cooley, dated Oct. 25, 1928. Received in evidence at Fol. 1305 (and see stipulation at 5443)	2759
Dfts. Ex. P-129—Receipt executed by B. D. Shultz, dated Oct. 24, 1928. Received in evidence at Fol. 1296	2759

XXIX.

Found in
Exhibit Book
at Page

Dfts. Ex. P-130—Receipt executed by James N. Scully, dated Oct. 24, 1928. Received in evidence at Fol. 1033.....	2759
Dfts. Ex. P-135—Receipt executed by Shultz Motor Sales, Inc., dated Oct. 24, 1928. Received in evidence at Fol. 1296.....	2760
Dfts. Ex. P-137—Receipt executed by H. L. & G. H. Chisholm, dated Oct. 24, 1928. Received in evidence at Fol. 3389.....	2760
Dfts. Ex. P-139—Receipt executed by A. B. Shultz, dated Oct. 24, 1928. (Said receipt as certified to this court in 1935 as "Respondent Exhibit 4" in the record in <i>Chisholm v. Commissioner</i> , [79 F. (2d) 14] and which contained no notation by Fisk was received in evidence in these suits at Fol. 6792.) Received in evidence at Fol. 3389, 4636 (and see stipulation at 1307 and statement at 6792)	2761
Dfts. Ex. P-140—Receipt executed by A. B. Shultz, dated Dec. 6, 1928. Received in evidence at Fol. 3517 (and see stipulation at 1307).....	2762
Dfts. Ex. P-141—Letter of defendant Wurst to A. B. Shultz, dated Dec. 6, 1928. Received in evidence at Fol. 3518.....	2765
Dfts. Ex. P-150—Liability ledger sheet of defendant Bank covering loans to defendant Cooley. Received in evidence at Fol. 3405.....	2768
Dfts. Ex. P-151—Certified check register of defendant Bank. Received in evidence at Fol. 3410	2769
Pl. Ex. P-152 (Id.)—Sheet from Discount Book of defendant Bank, dated Oct. 24, 1928. See stipulation at 3407).....	
Pl. Ex. P-153A/j—Collateral cards of defendant Bank relating to loans to defendant Cooley. Received in evidence at Fol. 1630.....	2383
Pl. Ex. P-155a—Ledger sheet of defendant Bank covering defendant Cooley's deposit account therein. Received in evidence at Fols. 1702-3, 2971	2393a

Pl. Ex. P-155b—Continuation of Plaintiffs' Ex. P-155a. Received in evidence at Fols. 1702-3, 2971	2393c
Dfts. Ex. P-156—Page from interest ledger of defendant Bank relating to loans to defendant Cooley. Received in evidence at Fol. 3419.....	2770
Dfts. Ex. P-157—Duplicate deposit slip of defendant Bank covering \$50,000 deposit of defendant Cooley, dated Oct. 27, 1928. Received in evidence at Fol. 3419.....	2771
Pl. Ex. P-158a through P-165c (Id.)—Various checks of defendant Cooley, certain of which (P-158c, P-162, P-163, P-164a, P-164b) were received in evidence at Fols. 1029, 1030, 1228, 1231, (and see stipulation at 3410-11).....	2772
Pl. Ex. P-166 (Id.)—Checks of Syndicate Managers, certain of which were received in evidence as Defendants' Exhibits D-47, D-48 and D-50 at Fols. 3074 and 3516. (See stipulation at 1721)	2773
Dfts. Ex. P-167a—Page from report of weekly transactions to Executive Committee of defendant Bank, dated Oct. 25, 1928. Received in evidence at Fol. 930.....	2774
Dfts. Ex. P-167b—Further page from report of weekly transactions to Executive Committee of defendant Bank, dated Oct. 25, 1928. Received in evidence at Fol. 930.....	2777
Dfts. Ex. P-168a—Page of report to Directors of defendant Bank, dated Nov. 7, 1928. Received in evidence at Fol. 942.....	2778
Dfts. Ex. P-168b—Further sheet from report to Board of Directors of the defendant Bank, dated Nov. 7, 1928. Received in evidence at Fol. 942	2778
Dfts. Ex. P-169—Daily statement of the defendant Bank, dated Oct. 31, 1928. Received in evidence at Fols. 3441-2	2779
Pl. Ex. P-170—Assignment executed by defendant Cooley, dated Nov. 16, 1928. Received in evidence at Fol. 5662	2394

XXXI.

Found in
Exhibit Book
at Page

Dfts. Ex. P-171—Letter H. L. and G. H. Chisholm to Krauss & Company and New York Car Wheel Company, dated Oct. 22, 1928. Received in evidence at Fol. 3991	2780
Dfts. Ex. P-172—Assignment executed by H. L. Chisholm to H. L. & G. H. Chisholm. Received in evidence at Fol. 3988	2781
Dfts. Ex. P-173—Assignment executed by G. H. Chisholm to H. L. & G. H. Chisholm. Received in evidence at Fol. 3988	2782
Dfts. Ex. P-174—Excerpt from partnership agreement of H. L. and G. H. Chisholm, dated Oct. 20, 1928. Received in evidence at Fols. 3988-9..	2784
Dfts. Ex. P-175a—Letter Joseph H. Morey to Syndicate Managers, dated Nov. 26, 1928, transmitting Plaintiffs' Ex. P-170. Received in evidence at Fol. 5732	2785
Dfts. Ex. P-175b—Carbon of letter defendant Wurst to Joseph H. Morey, dated Nov. 26, 1928, acknowledging receipt of Defendant's Ex. P-175a. Received in evidence at Fol. 5732..	2786
Dfts. Ex. P-176—Declaration of Trust executed by defendant Wurst, dated Nov. 15, 1928. Received in evidence at Fol. 6073.....	2787
Dfts. Ex. P-178—Executed counterpart of Syndicate agreement, dated Nov. 1, 1928. Other executed counterparts were received in evidence as Defendants' Exs. P-179, D-4 and D-8. Received in evidence at Fol. 1482.....	2789
Dfts. Ex. P-179—Executed counterpart of Syndicate agreement, dated Nov. 1, 1928. See Defendants' Ex. P-178, <i>supra</i> . Received in evidence at Fol. 1482	2789
Pl. Ex. P-181—See note <i>re</i> Plaintiff's Ex. 338 for Id. and Exhibit B to Complaints in these suits.	
Dfts. Ex. P-182—Executed carbon of letter Syndicate Managers to Continental National Bank & Trust Company, dated Nov. 20, 1928. (Plaintiff's Ex. P-87 is a photostat of this exhibit).	

XXXII.

Found in
Exhibit Book
at Page

Received in evidence at Fol. 3505 (and see stipulation at 3519)	2790
Dfts. Ex. P-183—Telegram Continental National Bank & Trust Co. to defendant Bank, dated Dec. 3, 1928, together with translation thereof. Received in evidence at Fol. 3509.....	2794
Dfts. Ex. P-184—Confirmation of Defendants' Ex. P-183. Received in evidence at Fol. 3509....	2794
Dfts. Ex. P-185—Telegram defendant Bank to Continental National Bank & Trust Co., dated Dec. 3, 1928, together with translation thereof. Received in evidence at Fol. 3509.....	2794
Dfts. Ex. P-186—Draft drawn by defendant Bank on First National Bank of Chicago for \$15,000, payable to Eastman, Dillon & Co., dated Nov. 20, 1928. Received in evidence at Fol. 3077....	2795
Dfts. Ex. P-187—Draft drawn by defendant Bank on First National Bank of Chicago, dated Nov. 20, 1928, for \$15,000 payable to Central Trust Co. of Illinois. Received in evidence at Fol. 3077	2795
Dfts. Ex. P-188—Check register of defendant Bank showing record of drafts drawn on First National Bank of Chicago. Received in evidence at Fol. 3077	2795
Dfts. Ex. P-189—Ledger page of defendant Bank showing its account with First National Bank of Chicago. Received in evidence at Fol. 3077-8	2795
Pl. Ex. P-192—Syndicate account in handwriting of the defendant Wurst on yellow sheets of paper, together with sheets annexed thereto. Received in evidence at Fol. 852	2396
Pl. Ex. P-193 (Id.)—Carbons of letters addressed by Syndicate Managers to Syndicate participants, dated Nov. 14, 1928. The copies addressed to A. B. Shultz and the defendant Sawyer were received in evidence as Plaintiffs' Ex. P-535, and Defendants' Ex. 193a, respectively. (See statement at 3490-3)	2402
Dfts. Ex. P-193a—Carbon of letter Syndicate Managers to A. B. Shultz, dated Nov. 14, 1928.	

XXXIII.

Found in
Exhibit Book
at Page

See Plaintiffs' Ex. 193 for identification, <i>supra</i> . Received in evidence at Fol. 3491	2796
Pl. Ex. P-194 (Id.)—Carbons of letters Syndicate Managers to Syndicate participants, dated Dec. 5, 1928. The copy addressed to C. R. Wyckoff was received in evidence as Plaintiffs' Ex. P-517. The copy of the letter addressed to A. B. Shultz was received in evidence as Defendants' Ex. D-41. (See stipulation at 1475 and statement at 3511-2)	2402
Dfts. Ex. P-195—Original letter Laverack & Haines to the defendant Cooley, dated Nov. 27, 1928, together with report annexed thereto. Received in evidence at Fol. 5468	2798
Dfts. Ex. P-200—Photostats of seven original letters written by A. B. Shultz to Barnes, Houdaille-Hershey Corporation and Fred A. Cornell, between Jan. 14, 1929 and Aug. 30, 1929. Received in evidence at Fols. 5351-2 (and see stipulation at 1307)	2799
Pl. Ex. P-224—Securities Transit ledger sheet of the defendant Bank covering various dates from May 24, 1928 to March 5, 1929. Received in evidence at Fol. 3073	2403
Pl. Ex. P-225—Original letter E. T. Lodge, Trico Products Corporation, to the defendant Wurst, dated Nov. 14, 1934, with memorandum of charges on long distance telephone calls annexed thereto. Received in evidence at Fol. 3082..	2404
Pl. Ex. P-226 (Id.)—Carbon of unexecuted agreement between stockholders of Houdaille Company and the defendant Bank, dated Feb. , 1928. This is the same as Plaintiffs' Ex. P-294 (another carbon from lawyer's files) in evidence and Plaintiffs' Ex. P-456 for identification, the latter being original from files of Eastman, Dillon & Co. (See stipulation at 2393)	2406
Pl. Ex. P-227—Carbon of draft of proposed financial shares of stock of Houdaille Corporation, together with pencil notations thereon. Received in evidence at Fol. 2470	2407
cial circular relating to issuance of 70,000	

Pl. Ex. P-228 (Id.)—Draft financial circular covering proposed issuance of 70,000 shares of convertible Class A stock of Houde containing the typewritten signature of Eastman, Dillon & Co.	2410
Pl. Ex. P-229 (Id.)—This exhibit is the original of which Plaintiffs' Ex. P-339 is a copy, so far as the latter exhibit contains typewritten matter. Upon the depositions four sheets of yellow paper clipped to Plaintiffs' Exhibit P-229 were marked Plaintiffs' Exs. P-229A, P-229B, P-229C and P-229D, respectively, (See 4489-90)	2412a
Pl. Ex. P-234—Statistical table relating to issuance of 50,000 shares of stock at 20 and 45,000 shares of stock at 21, (Plaintiff's Ex. P-417b from the files of Eastman, Dillon & Co. is a carbon copy of P-234). Received in evidence at Fol. 3082 (and see stipulation at 6319-20)	2413
Dfts. Ex. P-240—Memorandum in handwriting of Rea. Received in evidence at Fol. 4232	2800
Dfts. Ex. 241—Memorandum in handwriting of Rea. Received in evidence at Fol. 4232	2801
Dfts. Ex. P-248—Copy of longhand Western Union telegram Oishei to E. F. Johnson, General Motors Corporation, dated October 17, 1928. Received in evidence at Fol. 5057	2802
Dfts. Ex. P-249a/b—Oishei's notes. Received in evidence at Fol. 5038-9	2803
Dfts. Ex. P-250a/c—Oishei's notes. Received in evidence at Fol. 5038-9	2804
Dfts. Ex. P-254—Telegram Carlton M. Higbie to Oishei, dated Nov. 12, 1928. Received in evidence at Fol. 5063	2805
Defts. Ex. P-255—Telegram Oishei to Carlton M. Higbie dated November 12, 1928. Received in evidence at Fol. 5063	2806
Dfts. Ex. P. 257—Letter Harry Brown of Keane, Higbie & Co. to Oishei, dated November 14, 1928. Received in evidence at Fol. 5064	2807

XXXV.

Found in
Exhibit Book
at Page

Dfts. Ex. P-258—Carbon of letter Oishei to Harry E. Brown dated November 16, 1928. Received in evidence at Fol. 5064	2809
Pl. Ex. P-259—Telegram C. H. Oishei to J. R. Oishei, dated November 23, 1928. Received in evidence at Fol. 5072-3	2414
Dfts. Ex. P-262—Photostat of ledger sheet of defendant Bank's Safekeeping Account for A. B. Shultz relating to Class A stock of Houdaille-Hershey Corporation. Received in evidence at Fol. 4781	2810
Dfts. Ex. P-263—Photostat of defendant Bank's Safekeeping Account for A. B. Shultz, relating to Class B stock of Houdaille-Hershey Corporation. Received in evidence at Fol. 4781	2812
Dfts. Ex. P-266—Statement prepared by N. H. Drosendahl of Trust Department of defendant Bank giving a recapitulation of the Bank's Safekeeping Account for A. B. Shultz in stock of Houdaille-Hershey Corporation. Received in evidence at Fol. 4782	2814
Dfts. Ex. P-267—Signature card of defendant Bank for deposit account of Syndicate Managers. Received in evidence at Fol. 3523	2817
Dfts. Ex. P-268b—Nine sheets comprising original deposit account of A. B. Shultz in the defendant Bank from Nov. 19, 1928 to July 1, 1932. Only the first sheet marked "1A" on the front and "B" on the reverse side and covering dates Nov. 19, 1928 to Feb. 21, 1929 was offered and received. Received in evidence at Fol. 3517	2818
Pl. Ex. P-269a/h (Id.)—Daily statements of the defendant Bank covering various dates in October and November, 1928. These exhibits are erroneously referred to in the record as Plaintiffs' Exs. P-169a/h. (See statement at 662-6)	2415
Pl. Ex. P-270—Proposed financial circular covering issuance of 100,000 shares Houde Engineering Corp. Class A Participating stock, dated March 24, 1928. (Received in evidence at Fol. 4100	2416

Pl. Ex. P-271—Memorandum headed "HOUDE ENGINEERING CORPORATION PROPOS- ED STOCK PROVISIONS", bearing typewrit- ten name of H. R. Bennett, dated March 26, 1928. Received in evidence at Fol. 4100	2419
Dfts. Ex. P-272—Slip of printed paper headed "Preferred Stock Provisions." Received in evidence at Fol. 4143	2819
Dfts. Ex. P-273—Slip of printed paper headed "Common Stock Purchase Warrants." Re- ceived in evidence at Fol. 4143	2819
Dfts. Ex. P-274—Slip of printed paper headed "Common stock (no par value)." Received in evidence at Fol. 4143	2819
Dfts. Ex. P-275—Paper in handwriting of defen- dant G. H. Chisholm bearing notation "DAVE." Received in evidence at Fol. 4129	2820
Dfts. Ex. P-276—Paper in handwriting of de- fendant G. H. Chisholm bearing notation "BERT." Received in evidence at Fol. 4129 ..	2821
Dfts. Ex. P-277—Paper in handwriting of defen- dant G. H. Chisholm bearing notation "GHC." (Receive in evidence at Fol. 4129 ..	2822
Pl. Ex. P-278—Paper in handwriting of defendant G. H. Chisholm. Received in evidence at Fol. 4105	2420
Pl. Ex. P-279—Paper in handwriting of defendant G. H. Chisholm. Received in evidence at Fol. 4105	2420a
Pl. Ex. P-280a/c—Carbon of Chisholm's mem- orandum giving data on Houde. Received in evi- dence at Fols. 4086-7	2421
Pl. Ex. P-282—Paper in the handwriting of A. B. Shultz. Received in evidence at Fol. 4115 (and see stipulation at 1309)	2424
Pl. Ex. P-283*—Carbon of letter Sawyer to Isham, Lincoln & Beale, dated Feb. 13, 1928. Received in evidence at Fol. 2388	2425

XXXVII.

Found in
Exhibit Book
at Page

Pl. Ex. P-284—Carbon of letter Sawyer to Beaumont, Smith & Harris, dated Feb. 13, 1928. Received in evidence at Fol. 2388	2426
Pl. Ex. P-285—Carbon of letter Sawyer to Robert H. Richards, dated Feb. 14, 1928. Received in evidence at Fol. 2388	2427
Pl. Ex. P-286—Letter from Charles Wright, Jr., of Beaumont, Smith & Harris, to Sawyer, dated Feb. 14, 1928. Received in evidence at Fol. 2475	2428
Pl. Ex. P-288—Letter Robert. H. Richards to Sawyer, dated Feb. 23, 1928, Received in evidence at Fol. 2475-6	2429
Pl. Ex. P-289—Carbon of letter Sawyer to Robert H. Richards, dated Feb. 24, 1928. Received in evidence at Fol. 2476	2430
* Exhibits bearing numbers from P-283 to P-351, inclusive, were produced from the files of the defendant Sawyer.	
Pl. Ex. P-290a—Letter Sawyer to Charles Wright, Jr. of Beaumont, Smith & Harris, dated February . . ., 1928 (not sent). Received in evidence at Fols. 2388-9	2431
Pl. Ex. P-291 (id.)—Letter Parker to Sawyer, dated March 2, 1928	2433
Pl. Ex. P-292—Carbon of letter Sawyer to Rea, dated July 14, 1928. Received in evidence at Fol. 2488	2434
Pl. Ex. P-293—Carbon of letter prepared by Sawyer to be sent to Ford Motor Co., dated Feb. 3, 1928. (This is a carbon copy of the type-written portion of Plaintiffs' Ex. P-453 from the files of defendants Eastman, Dillon & Co.) Received in evidence at Fol. 2494	2435
Pl. Ex. P-294—Carbon of proposed agreement between Houde stockholders and the defendant Bank, dated Feb. . . ., 1928. (This is the same as Plaintiffs' Ex. P-226 for iden. and Plaintiffs' Ex. P-456 for identification, the latter being the ribbon copy from the files of the defendant Eastman, Dillon & Co.) Received in evidence at Fols. 2393-4	2436

XXXVIII.

Found in
Exhibit Book
at Page

Pl. Ex. P-295—Paper containing Sawyer's notes. Received in evidence at Fol. 2390	2445
Pl. Ex. P-298—Carbon of letter Sawyer to Corporation Trust Co. dated Oct. 22, 1928. Received in evidence at Fol. 2459	2446
Pl. Ex. P-299 (id.)—Telegram from Corporation Trust Company to Dudley, Stowe & Sawyer, dated Oct. 23, 1928	2446a
Pl. Ex. P-301 (id.)—Carbon of letter Sawyer to Joseph H. Morey, dated Oct. 25, 1928	2446a
Pl. Ex. P-303—Carbon of letter Sawyer to Corporation Trust Company, dated Oct. 31, 1928. Received in evidence at Fol. 2497	2447
Pl. Ex. P-312—Carbon of letter Sawyer to Corporation Trust Co., dated Nov. 9, 1928. Received in evidence at Fol. 2497	2448
Pl. Ex. P-314 (id.)—Unexecuted carbon of Defendants' Ex. P-182	2448a
Pl. Ex. P-315 (id.)—Carbon of Plaintiffs' Ex. P-88. P-315 is from files of the defendant Sawyer	2448a
Pl. Ex. P-327—Received bill of Dudley, Stowe & Sawyer to Fred B. Cooley, c/o the defendant Bank, dated Nov. 16, 1928. Received in evidence at Fol. 2590	2449
Pl. Ex. P-328a (id.)—Copy of Plaintiffs' Ex. P-98 from files of defendant Sawyer. (See stipulation from files of the defendant Sawyer	2449a
Pl. Ex. P-329 (id.)—Copy of Plaintiffs' Ex. P-101 .. from files of the defendant Sawyer	2449a
Pl. Ex. P-330—Paper containing longhand notes of defendant Sawyer, headed "F. P. Scully". Received in evidence at Fol. 2401	2450
Dfts. Ex. P-332a—Affidavit executed by A. B. Shultz, Oct. 22, 1928. Received in evidence at Fol. 2538 (and see stipulation at 1307)	2823

XXXIX.

Found in
Exhibit Book
at Page

Dfts. Ex. P-333—Ribbon copy of unexecuted affidavit of the defendant Sawyer dated Nov. , 1928. Received in evidence at Fol. 2536	2827
Pl. Ex. P-335—Sawyer's longhand preliminary draft of syndicate agreement dated Oct. , 1928. Received in evidence at Fols. 2473-4....	2452
Pl. Ex. P-336—Sawyer's typewritten draft of Syndicate agreement dated Oct. , 1928, with Sawyer's notes thereon. Received in evidence at Fol. 2474	2455
Pl. Ex. P-337 (id.)—Unexecuted carbon of Syndicate agreement. Defendants' Exs. P-178, P-179, D-4 and D-8 are executed copies of Plaintiffs' Ex. P-337 for identification which is from files of the defendant Sawyer	2459a
Pl. Ex. P-338 (id.)—Carbon of Plaintiffs' Ex. P-181 for identification, which is printed with corrections (but without initials opposite said corrections) as Exhibit B to the complaints. Plaintiffs' Ex. P-338 for identification is from files of defendant Sawyer	2459a
Pl. Ex. P-339—Carbon of paper containing typewritten and pencil notes in Sawyer's hand. Plaintiffs' Ex. P-229 is the ribbon copy of the typewritten portion of this exhibit. Received in evidence at Fol. 2495	2460
Pl. Ex. P-340—Typewritten notes headed "MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY, HOUDAILLE". Received in evidence at Fol. 2495	2461
Pl. Ex. P-341—Typewritten notes headed "MANUFACTURERS & TRADERS-PEOPLES TRUST COMPANY, HOUDAILLE". Received in evidence at Fol. 2495	2462
Pl. Ex. P-344 (id.)—Paper produced from files of defendant Sawyer and containing notes in handwriting of said defendant	2463
Pl. Ex. P-345—Paper produced from files of defendant Sawyer and containing his pencil notes. Received in evidence at Fol. 2497	2464

Pl. Ex. P-346—Paper from files of defendant Sawyer containing his pencil notes. Received in evidence at Fol. 2470	2465
Pl. Ex. P-347 (id.)—Carbon of memorandum from files of defendant Sawyer, headed "M. & T. re HOUDAILLE, Memo for Powers Clause."..	2466
Pl. Ex. P-349b—Paper from files of defendant Sawyer containing his pencil notes. Received in evidence at Fol. 2473.....	2467
Pl. Ex. P-351—Paper containing pencil notes of defendant Sawyer. Received in evidence at Fol. 2474	2468
Pl. Ex. P-363a/d—Pages 74, 75, 77, 78 from personal account book of defendant Cooley. Page 12 of this same book was received as Defendants' Ex. P-363e. Pages 145 and 146 were received as Plaintiffs' Exhibits P-581 and P-582. Received in evidence at Fol. 3053.....	2470
Dfts. Ex. P-363e—Page 12 of Personal account book of the defendant Cooley. See Plaintiffs' Ex. P-363a/d, <i>supra</i> . Received in evidence at Fol. 5442	2831
Dfts. Ex. P-364—Received bill of Ernst & Ernst, in the amount of \$10,000, dated Nov. 24, 1928 and addressed to "Perry E. Wurst, Manufacturers & Traders-Peoples Trust Co." Received in evidence at Fol. 3510.....	2833
Pl. Ex. P-368—Letter Ralph F. Peo to Mr. Randal, dated July 15, 1939. Received in evidence at Fol. 5305.....	2472
Pl. Ex. P-369—Carbon of letter Mr. Randal to Mr. Peo, dated July 17, 1939. Received in evidence at Fol. 5311.....	2473
Pl. Ex. P-370—Letter Mr. Peo to Mr. Randal, dated July 24, 1939. Received in evidence at Fol. 5311	2474
Pl. Ex. P-372—Photostat of registration record of Mr. and Mrs. J. R. Oishei at Hotel Ambassador, New York City. Received in evidence at Fol. 1475	2475

Pl. Ex. P-373—Photostat of registration record of Mr. and Mrs. F. B. Cooley, at Hotel Ambassador, New York City. Received in evidence at Fol. 1475	2475
Pl. Ex. P-374—Photostat of ledger card of Mr. and Mrs. J. R. Oishei, at Hotel Ambassador, New York City. Received in evidence at Fol. 1475	2476
Pl. Ex. P-375—Carbon of wire on form of Eastman, Dillon & Co., J. E. Gray to Buffington, dated Mar. 28, 1928. Received in evidence at Fol. 2895	2477
Pl. Ex. P-376—Letter J. E. McMahon of Chicago office of Eastman, Dillon & Co. to J. E. Gray, New York office, dated Mar. 28, 1928. Received in evidence at Fol. 2895	2478
Pl. Ex. P-377—Wire on form of Eastman, Dillon & Co., Buffington to Gray, dated April 2, 1928. Received in evidence at Fol. 2895	2479
Pl. Ex. P-378—Copy of wire on form of Eastman, Dillon & Co., Gray to Buffington, dated April 2, 1928. Received in evidence at Fol. 2895	2480
Pl. Ex. P-379—Wire on form of Eastman, Dillon & Co., Buffington to Gray, dated April 3, 1928. Received in evidence at Fol. 2895	2481
Dfts. Ex. P-380—Copy of wire on form of Eastman, Dillon & Co., Buffington to Parker, c/o defendant Bank, dated April 21, 1928. Received in evidence at Fol. 2957	2834
* Exhibits bearing numbers from P-375 to P-468a, inclusive, were produced from the files of the defendant Eastman, Dillon & Co.	
Dfts. Ex. P-381—Wire on form of Eastman, Dillon & Co., Parker to Buffington, dated April 23, 1928. Received in evidence at Fol. 2597	2835
Dfts. Ex. P-384—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated July 31, 1928. Received in evidence at Fol. 2953	2836

Pl. Ex. P-386—Wire on from of Eastman, Dillon & Co., Siler to Buffington, dated Sept. 4, 1928. Received in evidence at Fol. 2900.....	2482
Pl. Ex. P-387—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 7, 1928. Received in evidence at Fol. 2900.....	2483
Pl. Ex. P-388—Wire on form of Eastman, Dillon & Co. from Buffalo, N. Y. and addressed to Buffington, dated Sept. 7, 1928. Received in evidence at Fols. 2900-1	2484
Pl. Ex. P-389—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 24, 1928. This is the original which Plaintiffs' Ex. P-64 for identification on the depositions is a photostat. Received in evidence at Fol. 2901	2485
Pl. Ex. P-390—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 24, 1928. Received in evidence at Fol. 2901	2486
Pl. Ex. P-391—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 25, 1928. Received in evidence at Fol. 2901...	2487
Pl. Ex. P-392—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 25, 1928. This is the original of which Plaintiffs' Ex. P-65 for identification on the depositions is a photostat. Received in evidence at Fol. 2902 ..	2488
Pl. Ex. P-393—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea at Hotel Ambassador, New York City, dated Sept. 26, 1928. This is the original of which Plaintiffs' Ex. P-66 for identification on the depositions is a photostat. Received in evidence at Fol. 2902 ..	2489
Dfts. Ex. P-394—Copy of wire on form of Eastman, Dillon & Co., from Buffington to New York operator, dated Sept. 26, 1928. Received in evidence at Fol. 2953.....	2837
Dfts. Ex. P-395—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Sept. 27, 1928. This is the original of which	

XLIII.

Found in
Exhibit Book
at Page

Plaintiffs' Ex. P-67 for identification on the depositions is a photostat. Received in evidence at Fol. 2954	2838
Pl. Ex. P-396 (id.)—Photostat of typewritten copy of instrument of Sept. 26, 1928, (from Eastman-Dillon's Files)	2490
Pl. Ex. P-397—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Oct. 1, 1928. Received in evidence at Fol. 2903	2491
Pl. Ex. P-398—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Oct. 1, 1928. Received in evidence at Fol. 2903	2492
Pl. Ex. P-399—Wire on form of Eastman, Dillon & Co., Rea to Buffington, dated Oct. 1, 1928. Received in evidence at Fol. 2903	2493
Pl. Ex. P-402—Copy of wire on form of Eastman, Dillon & Co., Buffington to Bent, dated Oct. 15, 1928. (This is the original of which Plaintiffs' Ex. P-70 for identification on the depositions is a photostat). Received in evidence at Fol. 2903	2494
Defts. Ex. P-403—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, Oct. 3, 1928. (This is the original of which Plaintiffs' Ex. P-68 for identification on the depositions is a photostat.) Received in evidence at Fol. 2954	2839
Pl. Ex. P-404—Copy of wire on form of Eastman, Dillon & Co., Buffington to Bent, Oct. 16, 1928. Received in evidence at Fol. 2903	2495
Defts. Ex. P-405—Wire on form of Eastman, Dillon Co., Miss Paterson to Buffington, dated Oct. 17, 1928. Received in evidence at Fol. 2954....	2840
Pl. Ex. P-406—Wire on form of Eastman, Dillon & Co., Miss Paterson to Buffington, dated October 17, 1928. Received in evidence at Fol. 2903	2496
Pl. Ex. P-407—Wire on form of Eastman, Dillon & Co., Miss Paterson to Buffington, dated Octo-	

ber 17, 1928. Received in evidence at Fol. 2903-4	2497
Pl. Ex. P-408—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated October 21, 1928. Received in evidence at Fol. 2904	2498
Pl. Ex. P-409—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Oct. 21, 1928. Received in evidence at Fol. 2904	2499
Pl. Ex. P-410—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea, Oct. 21, 1928. Received in evidence at Fol. 2904	2500
Pl. Ex. P-411—Wire on form of Eastman, Dillon & Co., Rea to Buffington, Oct. 22, 1928. Received in evidence at Fol. 2904	2501
Pl. Ex. P-412—Wire on form of Eastman, Dillon & Co., Rea to Buffington, Oct. 22, 1928. Received in evidence at Fol. 2904	2502
Pl. Ex. P-413—Wire on form of Eastman, Dillon & Co., Rea to Buffington, dated Oct. 22, 1928. Received in evidence at Fol. 2904	2503
Dfts. Ex. P-414—Wire on form of Eastman, Dillon & Co., W. H. Wilson to Buffington, Oct. 27, 1928. Received in evidence at Fol. 2954 ..	2841
Dfts. Ex. P-415—Wire on form of Eastman, Dillon & Co., Buffington to W. H. Wilson. Received in evidence at Fol. 2954	2842
Dfts. Ex. P-416—Copy of wire on form of Eastman, Dillon & Co., Buffington to Rea. Received in evidence at Fol. 2954	2843
Pl. Ex. P-417—Letter W. H. Wilson of Ernst & Ernst, to Buffington, dated Oct. 27, 1928. Received in evidence at Fol. 3053 (and see statement at 3054)	2504
Pl. Ex. P-417a—Carbon statement headed "NON-RECURRING ITEMS WHICH ERNST & ERNST WILL CERTIFY To". (This is the same as Plaintiffs' Ex. P-11.) Received in evidence at Fol. 3053 (and see stipulation at 2968)	2505

Pl. Ex. P-417b—This is a carbon of Plaintiffs' Ex. P-234 from the files of defendant Sawyer. Received in evidence at Fol. 3053	2505
Pl. Ex. P-418—Wire on form of Eastman, Dillon & Co., Rea to Buffington, Oct. 29, 1928. Received in evidence at Fol. 2921	2506
Pl. Ex. P-419—Carbon of wire on form of Eastman, Dillon & Co., Buffington to Rea, dated Nov. 8, 1928. Received in evidence at Fol. 2921	2507
Pl. Ex. P-420—Wire on form of Eastman, Dillon & Co., Rea to Buffington, Nov. 8, 1928. Received in evidence at Fol. 2921	2508
Pl. Ex. P-421—Carbon of letter Buffington to Rea, Nov. 10, 1928. (Plaintiffs' Ex. P-80 for identification on the depositions is a photostat of Plaintiffs' Ex. P-421.) Received in evidence at Fol. 2921	2509
Pl. Ex. P-422—Letter of Rea to Buffington, dated Nov. 12, 1928. (Plaintiffs' Ex. P-81 for identification upon the depositions is a photostat of Plaintiffs' Ex. P-422.) Received in evidence at Fols. 2921-2	2510
Pl. Ex. P-423—Letter Melville C. Mason of Beaumont, Smith & Harris, to Buffington, dated Nov. 17, 1928. Received in evidence at Fol. 2922....	2511
Dfts. Ex. P-425—Carbon of letter Buffington to Allington, dated Nov. 19, 1928. Received in evidence at Fol. 2953	2844
Dfts. Ex. P-426—Copy of contract between Harris, Small & Co. and Eastman, Dillon & Co., dated Nov. 20, 1928. Received in evidence at Fol. 2953 (and see stipulation at 6501).....	2845
Pl. Ex. P-427—Letter Chapman & Cutler, Chicago to Eastman, Dillon & Co., dated Dec. 3, 1928. Received in evidence at Fol. 2922.....	2512
Pl. Ex. P-427a/c—Carbon of letter Chapman & Cutler, Chicago to Paul H. Davis & Co., dated Dec. 3, 1928. Received in evidence at Fol. 2922.	2512

Pl. Ex. P-427d—Certified copy of agreement between Harris, Small & Co. and Houdaille Corp., dated Nov. 15, 1928. Received in evidence at Fol. 2922 (and see stipulation at 6502).....	2514
Pl. Ex. P-431—Wire on form of Eastman, Dillon & Co., Rea to Buffington. Received in evidence at Fol. 2901.....	2517
Pl. Ex. P-436—Wire on form of Eastman, Dillon & Co., Rea to Buffington. Received in evidence at Fol. 2901.....	2518
Pl. Ex. P-437—Wire on form of Eastman, Dillon & Co., Buffington to Rea. Received in evidence at Fol. 2923	2519
Pl. Ex. P-439—Wire on form of Eastman, Dillon & Co., Rea to Buffington. Received in evidence at Fols. 2901-2	2520
Pl. Ex. P-441—Memorandum headed “ <i>Re: THE HOUDE ENGINEERING COMPANY, BUFFALO, N. Y.</i> ”, dated Jan. 11, 1928, bearing typewritten signature of Buffington. (The two sheets of this exhibit were marked Plaintiffs’ Exs. P-441 and P-441a on the depositions). Received in evidence at Fol. 2767	2521
Pl. Ex. P-443 (id.)—Memorandum headed “ <i>HOUDE ENGINEERING CORPORATION</i> ”.....	2524
Dfts. Ex. P-448—Memorandum entitled “ <i>Re: Houde Engineering Company, Buffalo, N. Y.</i> ”, dated Feb. 20, 1928, bearing the typewritten signature of Buffington. Received in evidence at Fols. 2954-5, 6086.....	2847
Dfts. Ex. P-449—Financial circular signed by Eastman, Dillon & Co. offering 108,000 units of Houdaille Corp. stock. Received in evidence at Fol. 6086	2848
Pl. Ex. P-451—Photostat of publicity release. (The two pages of this exhibit were marked Plaintiffs’ Exs. P-451 and P-451a on the depositions). Received in evidence at Fol. 4934	2525
Pl. Ex. P-453 (id.)—Carbon of uninitialed letter addressed to Ford Motor Co., dated Feb. 3, 1928.	

XLVII.

Found in
Exhibit Book
at Page

The typewritten portion of this letter is the same as Plaintiffs' Ex. P-293 from the files of the defendant Sawyer	2526
Dfts. Ex. P-454—Carbon of memorandum with reference to Houde, dated Feb. 7, 1928. (This is substantially the same as Plaintiffs' Ex. P-20. The four pages of this exhibit were marked P-454, P-454-a, P-454-b, and P-454-c, upon the depositions). Received in evidence at Fol. 3691	2849
Pl. Ex. P-456 (id.)—Unexecuted contract between Houde stockholders and the defendant Bank, dated Feb., 1928. Plaintiffs' Exs. 294 in evidence and 226 for identification are carbons of this exhibit which is from Eastman-Dillon files	2527
Pl. Ex. P-460—Photostat of carbon of letter, Harris, Small & Co. to Paul H. Davis & Co. and Eastman, Dillon & Co., dated Nov. 22, 1928. Received in evidence at Fol. 4983	2528
Dfts. Ex. P-468—Carbon of letter Buffington to Rea, dated Oct. 6, 1928. Received in evidence at Fol. 2954	2850
Dfts. Ex. P-468a—Copy of portion of Automotive Daily News, dated Oct. 3, 1928. Received in evidence at Fol. 6087	2851
Pl. Ex. P-475 (Id.)—Carbon of letter Mr. Randal to Buffington, dated Sept. 12, 1938	2530
Pl. Ex. P-476 (Id.)—Letter Buffington to Mr. Randal, dated Sept. 15, 1938	2532
Pl. Ex. P-477 (Id.)—Carbon of letter Mr. Randal to Buffington, dated Sept. 16, 1938	2533
Pl. Ex. 478—Carbon of letter Mr. Randal to Larkin, Rathbone & Perry, dated Sept. 23, 1938 ..	2534
Pl. Ex. P-479 (Id.)—Telegram Larkin, Rathbone & Perry to Mr. Randal, dated Sept. 26, 1938 ..	2535
Pl. Ex. P-480 (Id.)—Letter Larkin, Rathbone & Perry to Mr. Randal, dated Sept. 30, 1938 ..	2536

XLVIII.

Found in
Exhibit Book
at Page

Pl. Ex. P-481—Carbon of letter Mr. Randal to Buffington, dated Oct. 6, 1938	2537
Pl. Ex. P-482 (id.)—Letter Buffington to Mr. Randal, dated Oct. 10, 1938	2538
Pl. Ex. P-483—Photostat of letter, Melville C. Mason of Beaumont, Smith & Harris to Paul H. Davis & Co., dated Nov. 17, 1928. Received in evidence at Fal. 4926	2539
Pl. Ex. P-484 (id.)—Photostat of unaccepted, unopened letter contract between Harris, Small & Co. and Paul H. Davis & Co. It is executed by C. D. Allington for Harris, Small & Co. but not accepted by Paul H. Davis & Co. This is substantially the same as Defendants' Ex. P-488, which is the executed copy of agreement between Harris, Small & Co. and Paul H. Davis & Co.	2540
Dfts. Ex. P-488—Photostat of letter contract between Harris, Small & Co. and Paul H. Davis & Co., dated Nov. 21, 1928. Received in evidence at Fols. 4859, 6501	2852
Dfts. Ex. P-494a—Office charge slip of Irving L. Fisk made out in the name of A. B. Shultz. Received in evidence at Fol. 4614	2854
Dfts. Ex. P-494b—Office charge slip of Irving L. Fisk made out in the name of Houde Engineering Corp. Received in evidence at Fol. 4562 ..	2854
Dfts. Ex. P-494c—Office charge slip of Irving L. Fisk made out in the name of Houde Engineering Corp. Received in evidence at Fol. 4614 ..	2854
Dfts. Ex. P-495—Financial statement of New York Car Wheel Co. to defendant Bank dated April 18, 1928. Received in evidence at Fol. 5713	2855
Pl. Ex. P-510—Certificate of deposit of defendant Bank to H. L. & G. H. Chisholm for \$1,044.849.04, dated Oct. 25, 1928. Received in evidence at Fol. 885	2541

XLIX.

Found in
Exhibit Book
at Page

Pl. Ex. P-511—Correspondence between Plaintiffs, their counsel and defendant Bank. Received in evidence at Fols. 1585-6.....	2542 <i>et seq.</i>
Dfts. Ex. P-515—Ledger sheet of defendant Bank covering deposit account of Syndicate Managers.. Received in evidence at Fol. 3523.....	2857
Pl. Ex. P-517—Carbon of letter Syndicate Managers to Wyckoff, dated Dec. 5, 1928. This is part of Plaintiffs' Ex. P-194 for identification. Received in evidence at Fol. 1441.....	2560
Pl. Ex. P-520—Letter Rea to Buffington, dated July 26, 1928. Plaintiffs' Ex. P-55 upon the taking of the depositions is a photostat of P-520. Received in evidence at Fol. 1680 (and see 4426)	2561
Pl. Ex. P-534—Letter Sawyer to Buffington, dated Oct. 27, 1928. (This is the original of which Plaintiffs' Ex. P-73 for identification on the depositions is a photostat. Received in evidence at Fol. 2411.....	2563
Pl. Ex. P-535—Carbon of letter Syndicate Managers to defendant Sawyer, dated Nov. 14, 1928. This is a part of Plaintiffs' Ex. P-193 for identification. Received in evidence at Fol. 2448...	2564
Pl. Ex. P-536 (Id.)—Carbon of letter Mr. Randal to the defendant Sawyer, dated Aug. 18, 1938..	2565
Pl. Ex. P-537 (id.)—Subpoena <i>duces tecum</i> served on Wyatt D. Shultz during the trial of these suits	2565a
Pl. Ex. P-542—A copy of receipt (Exhibit C to complaints) with defendant Bank's undertaking (signed by defendant Wurst) to see that balance of purchase price for decedent's Houde stock would be paid in accordance with terms of receipt. Received in evidence at Fol. 2900 (and see statement at 2971).....	2566
Pl. Ex. P-546—G. H. Chisholm's handwritten draft of cable, Ex. P-547. Received in evidence at Fol. 2932	2567

Pl. Ex. P-547—Carbon of cable, G. H. Chisholm to A. B. Shultz, dated Sept. 29, 1928. Received in evidence at Fol. 2933.....	2568
Pl. Ex. P-550—Carbon of radiogram, Peo to A. B. Shultz, dated Oct. 13, 1928. Received in evi- dence at Fol. 2935.....	2569
Pl. Ex. P-551—Carbon of letter, Peo to A. B. Shultz, Paris, France, dated Sept. 28, 1928, Received in evidence at Fol. 2936.....	2570
Pl. Ex. P-552—Cable from A. B. Shultz to Houde dated Sept. 28, 1928. Received in evidence at Fol. 2936	2573
Pl. Ex. P-554—Cable from A. B. Shultz to Houde, dated Sept. 27, 1928. Received in evidence at Fol. 2937	2574
Pl. Ex. P-555—Carbon of cable to A. B. Shultz in Paris, dated Sept. 25, 1928, with typewritten signature "Dave." Received in evidence at Fol. 2938	2574
Pl. Ex. P-556—Carbon of cable, Houde Company to T. Archer Morgan, dated Sept. 25, 1928. Re- ceived in evidence at Fol. 2938.....	2574
Pl. Ex. P-561—Carbon of cable dated Oct. 9, 1928, addressed to A. B. Shultz, in Paris, with type- written signature "Dave". Received in evidence at Fol. 2961	2575
Pl. Ex. P-565—Exemplified copy of Articles of Association of Houdaille Corp., schedule of property and agreement of consolidation be- tween Houdaille Corporation, Oakes Products Corporation and Hershey Corporation forming Houdaille-Hershey Corporation, Statement of franchise taxes, fees, etc. Received in evi- dence at Fol. 2965	2576
Pl. Ex. P-566—Copy of New York State Income Tax return of the defendant Cooley for the year 1928. Received in evidence at Fol. 3053..	2581
Pl. Ex. P-568 (id.)—Statement of assets and lia- bilities of A. B. Shultz, June 3, 1932.....	2581a

Pl. Ex. P-569—Exemplified photostat of application of Houdaille Corp. filed with Michigan Securities Commission, together with photostat copies of Preliminary Circular No. 3 and Statement "Bankers Commission on Sale of Houdaille Corporation Stock", filed in connection with said application, etc. Received in evidence at Fol. 3082 (and see statement at 4868-9)	2582
Pl. Ex. P-570—Photostat of listing application to Chicago Stock Exchange in connection with stock of Houdaille Corp. Received in evidence at Fol. 3083	2588
Pl. Ex. P-571 (id.)—Annual report of the defendant Bank to stockholders dated January 8, 1929. (See stipulation at 3520.)	2858
Pl. Ex. P-572—Carbon of resolution adopted at meeting of Directors of defendant Bank, on Jan. 9, 1928. Received in evidence at Fol. 3619.	2590
Dfts. Ex. P-577—Letter Irving L. Fisk to defendant Wurst, dated Dec. 5, 1928. Received in evidence at Fol. 4706	2859
Dfts. Ex. P-578—Carbon of unexecuted life insurance trust agreement between A. B. Shultz and defendant Bank, dated December .., 1928. Received in evidence at Fol. 4706	2860
Pl. Ex. P-577-a (id.)—Carbon copy of letter Mr. Randal to Harris, Small & Co., dated Sept. 12, 1938	2591
Pl. Ex. P-578a (id.)—Letter from Melville C. Mason of Beaumont, Smith & Harris to Mr. Randal, dated Sept. 21, 1938	2593
Pl. Ex. P-579—Photostat of list of investments of New York Car Wheel Co. dated Dec. 31, 1926 (the original of this exhibit is on file in the Erie County Clerk's office). Received in evidence at Fol. 5504	2595

LII.

Found in
Exhibit Book
at Page

Pl. Ex. P-580—Typewritten copy of article appearing in Buffalo Evening News, dated Oct. 26, 1928. Received in evidence at Fol. 5553	2597
Pl. Ex. P-581—Page 145 of the personal account book of the defendant Cooley. (Other pages from this same book were received in evidence as Plaintiffs' Exhibits P-363a/d and Defendants' Exhibit P-363e.) Received in evidence at Fols. 5720-1	2598
Pl. Ex. P-582—Page 146 of the personal account book of defendant Cooley. (See Plaintiffs' Exhibit P-581, <i>supra</i> .) Received in evidence at Fols. 5720-1	2598
Pl. Ex. P-583—Exemplified photostat of petition of defendant Wurst to the U. S. Board of Tax Appeals, verified Apr. 11, 1931. Received in evidence at Fol. 5899	2599
Pl. Ex. P-591—Daily statement of condition of defendant Bank dated Oct. 25, 1928. Received in evidence at Fol. 6652	2601
Pl. Ex. P-592—Subpoena <i>duces tecum</i> , dated Mar. 28, 1940, directed to Louis L. Babcock, with affidavit, upon which it issued. Received in evidence at Fol. 6772 (and see 524-6, 6770-71 and 6959)	2602
Plaintiffs' Exhibits (unnumbered received in evidence at Fol. 6661) consisting of minutes of Executive Committee of defendant Bank's Board of Directors for following dates:	
Oct. 17, 1928	2861
Oct. 24, 1928	2862
Dec. 5, 1928	2875
Dec. 12, 1928	2877

